



UNITED STATES MARINE CORPS
MARINE CORPS INSTALLATIONS EAST-MARINE CORPS BASE
PSC BOX 20005
CAMP LEJEUNE NC 28542-0005
MARINE CORPS INSTALLATIONS EAST-MARINE CORPS BASE

5830

SJA

OCT 17 2014

FIRST ENDORSEMENT on (b) (6) ltr 4361 EACO of 29 Sep 14

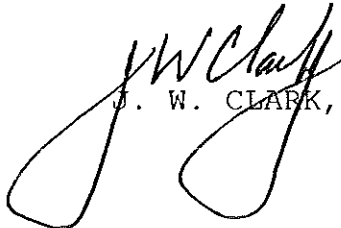
From: Commander, Marine Corps Installations East-Marine Corps
Base, Camp Lejeune

To: File

Subj: PRELIMINARY INQUIRY INTO A PHYSICAL ALTERCATION THAT
OCCURRED BETWEEN THE COMMANDING OFFICER, HQSPTBN, MARINE
CORPS BASE CAMP, LEJEUNE, AND MCIEAST COMPTROLLER ON 17
SEPTEMBER 2014

1. I approve the findings of fact and opinions of the
investigating officer.

2. This inquiry is closed and will be retained at this command
for a period of two years from the date of this action by the
Staff Judge Advocate, Marine Corps Installations East-Marine
Corps Base Camp Lejeune at (910) 451-4293. No further
investigation is warranted.


J. W. CLARK, JR.



UNITED STATES MARINE CORPS
EASTERN AREA COUNSEL OFFICE
67 VIRGINIA DARE DRIVE, SUITE 205
CAMP LEJEUNE, NORTH CAROLINA 28542

IN REPLY REFER TO:

4361

EACO

29 Sep 14

From: (b) (6)

To: Commander, Marine Corps Installations East-Marine Corps Base,
Camp Lejeune

Subj: PRELIMINARY INQUIRY INTO A PHYSICAL ALTERCATION THAT
OCCURRED BETWEEN THE COMMANDING OFFICER, HQSPTBN,
MARINE CORPS BASE, CAMP LEJEUNE, AND MCIEAST COMPTROLLER
ON 17 SEPTEMBER 2014

Ref: (a) JAGMAN
(b) Black's Law Dictionary (9th ed. 2009)
(c) Manual for Courts-Martial (2012 ed.)

Encl: (1) Appointment Letter 5930 SJA of 17 Sep 14
(2) Extension letter
(3) LtCol Gardner BIR/BTR
(4) LtCol Gardner's bio
(5) Mr. Scott Griffith's statement w/Privacy Act Notification
Notification and medical records confidentiality waiver
(6) Military Police Incident Report number 143100106398
(7) Engineer drawing of Building 8
(8) Mr. William Meier's statement
(9) H&S Bn Golf Tournament Flyer
(10) Photos from Golf Tournament
(11) SgtMaj Toshia Sundermier's Statement
(12) 1stLt Rebecca Carlson's statement
(13) Maj Shawn Miller's statement
(14) Mr. Ed Rotchford statement
(15) Photos of REA desks
(16) Captain Faunce's 31b Rights advisement
(17) Captain Faunce's grant of testimonial immunity
(18) Captain Faunce's statement w/Privacy Act Notification
(19) CWO2 Zagola's phone records
(20) CWO2 Zagola's statement
(21) Ms. Barbara Peyton's statement
(22) HIPPA exemption letter ICO LtCol Gardner
(23) LtCol Gardner's relevant medical records
(24) 18 USC § 113

- (25) Military Judge's Benchbook Instruction 5-2-2
- (26) BO 12752.1A Discipline, Conduct, and Adverse Actions
- (27) Business card for Mr. Eric Kopka, Esq.
- (28) UCMJ, Article 28 (10 USC § 928)

1. This reports completion of the preliminary inquiry conducted in accordance with reference (a) into an altercation between Lieutenant Colonel (LtCol) Harry L. Gardner, USMC and Mr. Scott M. Griffith, a U.S. Government civilian employee, which took place on 17 September 2014 at Building 8 on board Camp Lejeune, North Carolina. A short extension was requested and granted to allow time to gather additional documents and statements.

2. Personnel contacted: (List individuals with name, rank, title, unit, and telephone number).

- a. Gardner, Harry L., LtCol (USMC), Commanding Officer, Headquarters and Support Battalion, Marine Corps Base, Camp Lejeune, NC, (910) 451-9246
- b. Griffith, Scott M., GS-14, Deputy Comptroller, Headquarters and Support Battalion, Marine Corps Installations – East, (910) 451-2427
- c. Faunce, Jason B., Captain (USN), G-4 (Facilities), Headquarters and Support Battalion, Marine Corps Base, Camp Lejeune, NC, (910) 451-3034
- d. Zagola, Michael E., Chief Warrant Officer 2 (CWO2)(USMC), Financial Management Resources Officer, Headquarters and Support Battalion, Marine Corps Installations – East, (910) 451- 4130.
- e. Wieczynski, Timothy B., Staff Sergeant (SSgt) (USMC), Logistics Chief, Headquarters and Support Battalion, Marine Corps Base, Camp Lejeune, NC, (910) 451-4270.
- f. Carlson, Rebecca R., First Lieutenant (1stLt) (USMC), Battalion Adjutant, Headquarters and Support Battalion, Marine Corps Base, Camp Lejeune, NC (910) 451-5551.
- g. Sundermier, Toshia C., Sergeant Major (SgtMaj)(USMC), Battalion Sergeant major, Headquarters and Support Battalion, Marine Corps Base, Camp Lejeune, NC, (910) 451-0132.
- h. Miller, Shawn A., Major, (USMC), Battalion Executive Officer, Headquarters and Support Battalion, Marine Corps Base, Camp Lejeune, NC, (910) 451-3394.
- i. Heidi, Anastasia L, Marine Corps Community Services Coordinator, H&S Bn, MCCA, Camp Lejeune, North Carolina, (910) 376-5570.

- j. Stone, Christopher Q, Sergeant (Sgt)(USMC), Combat Photographer, Headquarters and Support Battalion, Marine Corps Base, Camp Lejeune, NC, (910) 451-1239.
- k. Peyton, Barbara J., Budget Analyst, Headquarters and Support Battalion, Marine Corps Installations – East, (910) 451-4143.
- l. Small, Robin D., Financial Management Analyst, Headquarters and Support Battalion, Marine Corps Installations – East, (910) 451-1375.
- m. Cirilo, Joshua R., Financial Management Resource Chief, Headquarters and Support Battalion, Marine Corps Installations – East, (910) 451-4169.
- n. Rotchford, Edward P., REA Officer, Headquarters and Support Battalion, Marine Corps Installations – East, (910) 451-4144.
- o. Meier, William A., Command Inspector, Headquarters and Support Battalion, Marine Corps Installations – East, (910) 449-9981.

3. Findings of Fact:

a. LtCol Harry L. Gardner is the Commanding Officer, Headquarters and Support Battalion, (H&S Bn) Marine Corps Base, Camp Lejeune, North Carolina. LtCol Gardner assumed his duties as Commanding Officer in June 2013. [Encls (3), and (6)].

b. Mr. Scott M. Griffith is the MCIEAST Deputy Comptroller. He retired from the Marine Corps in 2012 with 21 years 5 months on active duty. 7 months later he was hired by MCIEAST as the Deputy Comptroller, a GS-14 position, where he remains today. [Encls (5) and (6)].

c. In March 2014, (b) (6), the MCIEAST Comptroller, retired from Government service. Mr. Griffith was temporarily assigned to fill the position and was temporarily promoted to GS-15; however, the temporary appointment expired after 120 days (August 2014) and he reverted back to his GS-14 position as the Deputy Comptroller. [Encl (6)].

d. The job opening for the Comptroller, MCIEAST was announced on 17 September 2014. The announcement stayed open until 22 September 2014. Mr. Griffith applied for the position. [Encl (5)].

e. Both the Comptroller's office and the H&S Bn headquarters are located in Building 8, Camp Lejeune, North Carolina. Building 8 is a traditional "H" style two story building. For the past several years, the MCIEAST Comptroller's offices have occupied the first floor of Building 8 as well as half of the north wing of the second floor where the Resources Evaluation Analysis (REA) section of the Comptroller's office is

located. The REA office includes six civilian employees and four Marines. The remainder of the second floor contains the H&S Bn headquarters. [Encls (5), (6), (7) and (14)].

f. Since shortly after his arrival at H&S Bn, LtCol Gardner has been requesting that the REA office be relocated and the entire second floor of building 8 be dedicated to H&S Bn. Mr. Griffith, as well as the retired former Comptroller, ^{(b) (6)}, resisted this move citing their higher number of employees. Specifically, the Comptroller office has 49 civilians and Marines, while H&S has approximately 30; accordingly, Mr. Griffith argues that the Comptroller's office should be allocated more space in Building 8 than the smaller battalion headquarters. [Encls (5), (6) and (14)].

g. As a Commanding Officer, it was LtCol Gardner's prerogative to speak directly with the installation Commanding General (CG) and Chief of Staff (CoS) about his space allocation concerns. Mr. Griffith agreed that this was a Commander's prerogative, but didn't understand why LtCol Gardner didn't speak directly with him about the issue to try to work out a solution. Several plans to provide H&S and the Comptroller's more office space had been developed over the past year, but none were executed because the designated office space had to be used for other purposes. Nevertheless, Mr. Griffith did walk to LtCol Gardner's office to speak with him about the space allocation on one occasion approximately six months ago. That meeting degraded into a shouting match. [Encls (5) and (6)].

h. From approximately 2011 to June 2014, the MCIEAST Chief of Staff was Mr. Bill Meier, a retired Colonel and civilian Government employee. Both LtCol Gardner and Mr. Griffith had spoken with Mr. Meier several times about the issue. After careful deliberation, Mr. Meier had decided to recommend that the Comptroller's office move the REA section to Building 11, a short distance away from building 8. However, before that decision could be made Building 11 was occupied by another unit. [Encl (8)].

i. Colonel Thomas McCarthy became MCIEAST Chief of Staff in March of 2014. In order to assist him in deciding the space allocation question, Colonel McCarthy directed Captain Faunce to look into the issue and present benefits and difficulties of moving the REA section or providing H&S battalion additional space in another facility. Accordingly, Captain Faunce requested a meeting with LtCol Gardner and Mr. Griffith to discuss. The meeting was set for 1445 on 17 September 2014. Captain Faunce notified both men in an email on 9 September 2014. [Encl (6) and (18)].

j. Wednesday, 17 September 2014, was also the date for the Headquarters and Support Battalion golf tournament. Approximately 60 players competed in the tournament. It was held at the Camp Lejeune golf course, and started at 0730 and concluded about 1300 with an awards ceremony and lunch. LtCol Gardner, Major Chris Miller (Battalion Operations Officer), Sergeant Major Toshia C. Sundermier (Battalion Sergeant Major) and 1stLt Rebecca Carlson (Battalion Adjutant) comprised one golf team. Although the event price included three drink tickets for each player, and alcoholic

beverages were sold during the event, LtCol Gardner did not purchase or consume any alcohol during the golf tournament. [Encls (9) through (13)].

k. At approximately 1300, just as the Golf Tournament awards ceremony was about to begin, LtCol Gardner received a phone call from his wife reporting that there was a problem with one of the family automobiles and she needed his assistance. LtCol Gardner texted the Battalion Sergeant Major informing her that he was leaving to assist his wife, and for her to conduct the awards ceremony. After dropping his car off at home, LtCol Gardner returned to Building 8 at approximately 1400. [Encls (11) through (12)].

l. First Lieutenant Carlson attended the golf tournament awards ceremony and returned from the golf tournament around 1400. She was meeting with the CO when Mr. Griffith and Captain Faunce arrived at his office at approximately 1445. Captain Faunce had walked from his office in Building 12, stopped at Mr. Griffith's office first, and then the two men had walked to LtCol Gardner's office. [Encls (12) and (18)].

m. The three men spent a few minutes in LtCol Gardner's office discussing the move and the purpose of the meeting, before walking to the REA section to reexamine the space. [Encl (18)].

n. Mr. Griffith had notified the REA officer, Mr. Edward P. Rotchford, of the meeting prior to their arrival. Mr. Rotchford was aware of the contention over the use of the office space, and wanted to be as helpful as possible. Accordingly, Mr. Rotchford met Captain Faunce near the door as the three men entered the REA section. He then escorted Captain Faunce around the section, answering questions and providing Captain Faunce with information on the use of each desk and office. LtCol Gardner and Mr. Griffith stood near the section entrance while Mr. Rotchford and Captain Faunce walked through the section. The REA section is approximately 55 feet long and 27 feet wide; accordingly, Captain Faunce was able to see that Mr. Griffith and LtCol Gardner were not conversing as he toured the area. The REA section has desks running along each "long wall" facing inward. There is a walking path between the desks. If one were to stand at the head of the office and look to the back wall, he would see five "L" shaped desks on the left stretching to the back wall, and two desks on the right followed by two individual offices, a "contractor" desk and a storage space. [Encls (14) and (15)].

o. After approximately 5 minutes, Captain Faunce and Mr. Rotchford concluded the tour of the office and returned to where LtCol Gardner and Mr. Griffith were standing near the entrance to the section. Here, the four men continued discussing the office's utilization. [Encl (14)].

p. During the ensuing conversation, LtCol Gardner suggested that Mr. Griffith had moved personnel from the first deck to the REA space to convince Captain Faunce that the REA section was being fully utilized, and that if the group walked downstairs they would find empty desks where some of the REA employees could be relocated. In response, Mr. Griffith suggested that if the underutilization of Building 8 office space

was a question, that only six employees occupied the entire wing of the building with LtCol Gardner's office, and that they should return there. [Encls (6), (14) and (18)].

q. At this time, the conversation between LtCol Gardner and Mr. Griffith became increasingly tense. Mr. Rotchford noticed the increased tension and walked back to his office within the REA section, leaving Captain Faunce, LtCol Gardner and Mr. Griffith near the entrance to the section. The REA section entrance has a double door with a locking bar vertically bisecting the doorway. The area immediately inside the doorway is enclosed on three sides with walls. The wall opposite the doorway is approximately ten feet long, and ends in the middle of the REA office section. This wall creates a small, short hallway which one is required to travel before entering the REA section. Accordingly, only the desks in the northwest corner of the REA section can see around the wall to the entrance doors. Of the three desks with any direct view of the entrance doors, the only one occupied was that of the Chief Warrant Officer Michael E. Zagola, the MCIEAST Financial Management Resource Officer. [Encls (6), (14) and (18)].

r. CWO2 Zagola occupies the second desk in line on the left of the office. He has two large computer monitors that block his view of the front door. Only by craning his neck can he see the entrance doors. CWO2 Zagola stated that he was on the phone with Ms. Baxter, a customer from Blunt Island, Florida as the Mr. Rotchford and Captain Faunce completed their tour of the section. Ms. Baxter's phone number is (904) 714-6237. CWO2 Zagola's phone number is (910) 451-9130. CWO2 Zagola's phone records indicate that his phone call with Ms. Baxter lasted 2 minutes 41 seconds, from 1501 until 1504 on 17 September 2014. [Encls (14), (15), (19) and (20)].

s. As Mr. Rotchford walked back to his office, Captain Faunce, LtCol Gardner, and Mr. Griffith walked into the small hallway toward the entrance doors, stopping just inside the doors to argue about the space's future. As the group stopped to talk, they were all standing within a foot or two of each other. LtCol Gardner was standing with his back at the junction of the REA Section entrance door and the wall. Mr. Griffith was standing directly in front of him with his back toward the short hallway wall. Captain Faunce stood to LtCol Gardner's right, with the entrance door immediately to Captain Faunce's left. [Encls (5), (6) and (18)].

t. At approximately 1502, as the three men stood near the REA entrance doors arguing, LtCol Gardner and Mr. Griffith agreed that only the Commanding General could decide the space allocation disagreement. LtCol Gardner then announced that the former Chief of Staff, Mr. Meier, had previously decided that the REA section would vacate the section and allow H&S Bn personnel to move in. Mr. Griffith stated that he did not believe this to be true, and asked LtCol Gardner for an email memorializing the decision. LtCol Gardner responded that the order was verbal and that no documentation existed. Mr. Griffith stated that he did not believe such a decision had been made. Captain Faunce described LtCol Gardner's response to this statement as "profoundly inappropriate" in tone and content, but doesn't recall exactly what was said, only that it was personally insulting to Mr. Griffith and that the response contained expletives. [Encls (5), (6), and (18)].

u. Mr. Griffith responded to the insult from LtCol Gardner by leaning to within six inches of LtCol Gardner, pointing at his face with his finger, and stating that LtCol Gardner was a “whiney bitch” and a “fucking pussy” for “crying” to the Chief of Staff about the issue. [Encls (5), (6), and (18)].

v. LtCol Gardner responded by shouting that Mr. Griffith was in “his personal space” and asking him Mr. Griffith if he would like it if LtCol Gardner got into his space. Mr. Griffith repeated that he thought LtCol Gardner was a “fucking pussy.” [Encls (5), (6), and (18)].

w. LtCol Gardner then shouted “how would you like it if I got into your space” or words to that effect, and placed his right hand on Mr. Griffith’s chest and shoved him backwards. [Encls (5), (6), and (18)].

x. Captain Faunce, in an effort to create some room for the two men to separate, opened the right entrance door, momentarily turning his back on the two men to walk out of the section and hold the door open. [Encls (6) and (28)].

y. LtCol Gardner claims in his statement to police that Mr. Griffith was within “1 inch” of him, that the two men inadvertently touched, and that he used his hand to “push the two [men] away from each other.” [Encl (6)].

z. Mr. Griffith responded to being pushed by shouting to LtCol Gardner, “Don’t put your hands on me, if you ever put your hands on me again I will put you in the hospital” or words to that effect. [Encls (6), (20) and (21)].

aa. LtCol Gardner responded by placing both hands on Mr. Griffith’s chest and shoving him backwards again. [Encl (6)].

bb. LtCol Gardner claims in his statement to police that after he used his hands to “push the two [men] away from each other” that he and Mr. Griffith exchanged shoves twice before he “lost his balance” and he “pressed” his right hand on Mr. Griffith’s chest to prevent himself from falling. [Encl (6)].

cc. Mr. Griffith stated that he did not shove LtCol Gardner, but that after LtCol Gardner shoved him the second time that he “felt threatened” by LtCol Gardner’s assaults so he punched LtCol Gardner across the face with his fist. [Encls (5) and (6)].

dd. Mr. Griffith stated that LtCol Gardner then began “thrashing and advance[d] on me,” so Mr. Griffith placed LtCol Gardner in a head lock with his right hand, slammed his head into the wall opposite the entrance doors, then forced LtCol Gardner into the hallway corner (still holding LtCol Gardner in a head lock) and began hitting LtCol Gardner in the face with his left fist. [Encls (5) and (6)].

ee. Over his telephone conversation, CWO2 Zagola heard someone shout, “don’t put your hands on me” and looked over his computer screens to assess the situation. When he saw the two men struggling, he told Ms. Baxter to wait, placed the phone on his desk top, and ran to separate the two men. CWO2 Zagola arrived first and immediately wedged his own body between the two men, placing his right arm onto the vertical locking bar to stabilize himself and keep the men apart. [Encls (6), (15), and (20)].

ff. Staff Sergeant Timothy B. Wieczynski was sitting in the S-4 section across the hallway from the REA section when he heard the disturbance. As he looked up, he saw a “desperate” look on Captain Faunce’s face as well as the legs of the two struggling men protruding into the doorway. SSgt Wieczynski jumped from his desk and ran to separate the two men. CWO2 Zagola arrived just before him, so he assisted CWO2 Zagola by grabbing both of Mr. Griffith’s arms and pulling him backwards. [Encl (6)].

gg. Captain Faunce had not interceded into the verbal exchange or step in to prevent or stop the physical altercation. [Encl (6)].

hh. When first questioned by the investigating officer, Captain Faunce was advised of his rights under Article 31b and that he was suspected of dereliction of duty for not intervening in the situation to prevent or stop the altercation. He invoked his right to silence, and was subsequently granted testimonial immunity and ordered to cooperate with the investigating officer by the Commander, MCIEAST. He complied with the order to cooperate, providing several interviews and a written statement. [Encls (16), (17), and (18)].

ii. As the two men were pulled apart, LtCol Gardner stood up and shouted “You are done,” at Mr. Griffith. [Encls (6) and (18)].

jj. LtCol Gardner claims in his statement to police that he told Mr. Griffith, “We are done.” [Encl (6)].

kk. LtCol Gardner then walked to his office and called the “Deputy CG MCIEAST” as well as medical and police services. [Encl (6)].

ll. The Provost Marshall’s office received LtCol Gardner’s call at 1505. The first police car arrived at 1509. Upon their arrival, they began their investigation and began taking statements from all relevant personnel. [Encl (6)].

mm. LtCol Gardner waived his rights and made a statement to the military police, as did Mr. Griffith. Captain Faunce, CWO2 Zagola, and SSgt Wieczynski provided statements as well. [Encl (6)].

nn. LtCol Gardner took the following day off (18 September 2014) but reported to work on Friday 19 September 2014 where he sought medical attention at the Camp Lejeune Naval Hospital. Although LtCol Gardner “did not wish to share details of the event” the attending physicians were able to surmise that he had been struck in the side of

his head with a fist. Dr. Matthew S. Swain diagnosed LtCol Gardner with a closed skull fracture of the orbital floor ("blow out"). He noted that the fracture did not require surgical intervention, and there was no concussion. LtCol Gardner reported that although he "saw stars" for a second after the blow, he never lost consciousness, did not experience amnesia, and had no vomiting, nausea, irritability or persistent headache. LtCol Gardner was referred to ophthalmology and an ear, nose, and throat specialist, both of which concurred with the diagnosis of orbital floor fracture after their examinations on 22 September 2014. [Encl (23)].

oo. Mr. Griffith cooperated fully throughout the investigation, answering questions during several interviews and providing a second written statement. He also walked the investigating officer through the REA office where the office took place and signed a waiver form for his medical records pertaining to the incident (there were none). [Encl (5)].

pp. United States Code, Title 18, Chapter 7, section 113 criminalizes numerous degrees of assaults perpetrated on Federal property. Subparagraph (a)(4) proscribes "Assault by striking, beating, or wounding." Such an assault is punishable by fine, imprisonment for not more than 1 year, or both. [Encl (24)].

qq. The inherent right of self-defense is not codified in criminal statutes like conduct that constitutes a crime. Instead, the common law definition of self-defense is employed by both the federal military and civilian courts. "Common law" legal principles, such as the right of self-defense, have existed in English common law for hundreds of years and were adopted by American courts at the country's founding. Common law concepts exist in American jurisprudence until they are overturned by a statute or a judicial opinion. Accordingly, it is a defense to a charge under United States Code, Title 18, Chapter 7, Section 113 if (1) Mr. Griffith reasonably believed that the use of force was necessary to defend himself against an immediate use of unlawful force, and (2) Mr. Griffith used no more force than appeared reasonably necessary in the circumstances. If Mr. Griffith did use excessive force in defending himself, then he is also subject to a criminal charge of assault by "striking, beating, or wounding" another. [Encl (24) and reference (b)].

rr. Camp Lejeune Base Order 12752.1A dated 10 November 1998, provides in enclosure (6), the Schedule of Offenses and Recommended Remedies, that the range of remedies for the first offense of "fighting" is "reprimand to removal." [Encl (26)].

ss. The investigating officer emailed and called LtCol Gardner on Friday 19 September as well as Monday 22 September. When he received no reply, the investigating officer began interviewing witnesses, beginning with Mr. Griffith. In the afternoon of 22 September, the investigating officer asked LtCol Gardner's civilian secretary if he could speak with him. About 10 minutes later LtCol Gardner walked out of his office directly to a copier next to the waiting area. He then made a copy of his attorney's business card and handed it to the investigating officer, saying that he was declining to be interviewed. The defense counsel, Mr. Eric M. Kopka, was contacted

later in the week and confirmed that LtCol Gardner did not wish to make another statement. [Encl (27)].

tt. As an active duty service member, LtCol Gardner is subject to the UCMJ. Article 128 of the UCMJ criminalizes all forms of assault, including assault consummated by a battery. The UCMJ defines an "assault" is an attempt or offer with unlawful force or violence to do bodily harm to another. An assault in which bodily harm is inflicted is called a battery. A "battery" is an unlawful and intentional or culpably negligent application of force or violence to another. The act must be done without legal justification or excuse and without the lawful consent of the victim. "Bodily harm" means any physical injury to or offensive touching of another person, however slight. [Encl (28) and reference (c)].

uu. The UCMJ also allows for the inherent right of self-defense. For the right of self-defense to exist in the instant case, LtCol Gardner must have had a reasonable belief that bodily harm was about to be inflicted on him and he must have actually believed that the force he used was necessary to prevent bodily harm. In other words, the defense of self-defense has two parts. First, LtCol Gardner must have had a reasonable belief that physical harm was about to be inflicted on him. The test here is whether, under the same facts and circumstances in this case, any reasonably prudent person faced with the same situation, would have believed that he would immediately be physically harmed. Because this test is objective, such matters as intoxication or emotional instability of the individual are not relevant. Secondly, LtCol Gardner must have actually believed that the amount of force he used was required to protect himself. To determine LtCol Gardner's actual belief as to the amount of force which was necessary, you must look at the situation through his eyes. In addition to the circumstances known to LtCol Gardner at the time, his age, intelligence, and emotional control are all important factors in determining LtCol Gardner's actual belief about the amount of force required to protect himself. In protecting himself, LtCol Gardner is not required to use the same amount or kind of force as the attacker. However, he cannot use force which is likely to produce death or grievous bodily harm. [Encl (25)].

4. Opinions:

a. At all times during the investigation, Mr. Griffith seemed genuinely remorseful for his conduct during the incident. He admitted that his handling of the situation was "certainly unprofessional" and regretted the incident greatly. All of his subsequent statements, as well as those statements of the other witnesses, were consistent with the statement Mr. Griffith made to the military police on 17 September 2014.

b. The investigating officer was unable to speak with LtCol Gardner due to his invoking his right to remain silent and retaining an attorney, but based on the evidence reviewed during this investigation it appears that LtCol Gardner inappropriately escalated the verbal exchange between himself and Mr. Griffith, assaulted Mr. Griffith by shoving him backwards two times, and made statements inconsistent with the other witnesses to police. Specifically, beginning on line 16 of page 2 of his statement, LtCol Gardner


asserts 1) that Mr. Griffith used profanity first in the argument, 2) that Mr. Griffith shoved him twice before the two began grappling, and 3) that when he stood up from the fight, he stated "*We* are done," when two other witnesses to the event claim he actually stated "*You* [Mr. Griffith] are done." Cumulatively, these errors lead the investigating officer to believe he may have made a false statement in order to avoid culpability for the fight.

c. Mr. Griffith provides in his written and verbal statements that LtCol Gardner shoved him twice, and that he responded to the second shove by striking LtCol Gardner in the face with his fist. Captain Faunce saw LtCol Gardner shove Mr. Griffith then turned his back for a second or two to open a REA section entrance door, and saw the two men grappling on the floor when he turned back toward them. This version of events appears plausible.

d. LtCol Gardner, on the other hand, describes an inadvertent touch "due to there being no space available between us;" him "resting his hand on [Mr. Griffith's] chest to push us both away from each other;" Mr. Griffith shoving him "out of the entry way of the REA space," while telling him to "get the fuck out of his space;" LtCol Gardner putting his hand up to defend himself from this shove only to be pushed again by Mr. Griffith; whereupon LtCol Gardner lost his balance and put his hand on Mr. Griffith again before being attacked. There likely wasn't time for all of those incidents to have occurred in the second or two Captain Faunce had his back turned. Moreover, someone surely would have heard the statement "get the fuck out of my space" that LtCol Gardner claims Mr. Griffith was yelling at him. Instead, two witnesses (CWO2 Zagola and Ms. Peyton) heard someone say "don't put your hands on me." This overheard statement closely matches what Mr. Griffith's claims he said just before striking LtCol Gardner; "At that time I told LtCol Gardner that if he ever put his hands on me again that I would send him to the hospital." Although witnesses all heard shouting, the recollections of the actual content of the shouting differ.

e. LtCol Gardner may have 1) violated UCMJ Article 133 when he inappropriately escalated the argument between himself and Mr. Griffith by using profanity, 2) violated UCMJ Article 128 by shoving Mr. Griffith backwards, and 3) violated UCMJ Article 107 by making false statements to the military police on 17 September 2014, as described above.

f. Mr. Griffith may have exceeded the amount of force necessary to defend himself when he put LtCol Gardner in a head lock and began hitting him in the face with his fist. These acts violated 18 U.S.C § 113 and due to the severity of the injuries to LtCol Gardner's face, constitute an extreme example of "fighting" under enclosure (26).



R. G. PALMER



UNITED STATES MARINE CORPS
MARINE CORPS INSTALLATIONS EAST-MARINE CORPS BASE
PSC BOX 20005
CAMP LEJEUNE NC 28542-0005

5830

SJA

SEP 17 2014

From: Commander, Marine Corps Installations East-Marine Corps
Base, Camp Lejeune

To: (b) (6)

Subj: PRELIMINARY INQUIRY INTO A PHYSICAL ALTERCATION THAT
OCCURRED BETWEEN THE COMMANDING OFFICER, HQSPTBN,
MCIEAST, AND THE MCIEAST COMPTROLLER ON 17 SEPTEMBER 2014

Ref: (a) JAGMAN, Chapter II

1. Per the reference, you are hereby appointed to investigate the circumstances surrounding an altercation between the Commanding Officer, HqSptBn, MCIEAST, and the MCIEAST Comptroller.

2. You are to report your findings of facts and opinions as to what offenses, if any, may have been committed by military personnel, and what misconduct, if any, may have been committed by civilian personnel, or any other relevant opinion you deem appropriate, by 26 September 2014, unless an extension of time is granted. If you have not recently done so, you should review reference (a) before beginning your preliminary inquiry.

3. You may seek legal advice from the Staff Judge Advocate, Marine Corps Installations East-Marine Corps Base, Camp Lejeune, during the course of your inquiry.


J. W. CLARK JR.

ENCL (1)

(b) (6)

From: (b) (6)
Sent: Friday, September 26, 2014 10:31 AM
To: (b) (6)
Cc: Clark Col James W
Subject: RE: INVESTIGATION EXTENSION REQUEST
Signed By: (b) (6)

(b) (6)

Col Clark is out of the area today, but I have received verbal approval from him granting your extension request.

V/R

LtCol Hale

(b) (6)

-----Original Message-----

(b) (6)

Sent: Friday, September 26, 2014 10:04 AM

(b) (6)

Subject: INVESTIGATION EXTENSION REQUEST

(b) (6)

(b) (6)

(b) (6) I request an extension to the close of business on Monday, 29 September 2014 for completion of the inquiry.

S/F

(b) (6)

(b) (6)

MCTFS BASIC INDIVIDUAL RECORD

09/29/2014

12:23:06

EDIPI: 1048431247 NAME: GARDNER, HARRY L
RUC: 31001 COMPANY CODE: A PRES-GRADE: 05 RECSTAT: 0 COMP CODE: 11
PLT CODE: BCOR TRNGRP: H R-RECSTAT: 9 RCOMP-CODE:

----- CONTRACT INFORMATION -----

EAS: 00000000 COMPONENT CODE: 11 USMC OFFICER W
EOS: 19951109 ECC: 00000000 RESERVE COMPONENT CODE:
RESERVE ECC: 00000000 DATE ACCEPTED FIRST COMMISSION: 19950531
DATE OF ENL/ACCEPT: 19950531 DOD TRNGRP: RE TRAINING GRP: H IRR (0 PAID ID
AFADB: 19930615 PEBD: 19910708 MANDATORY DRILL START: 19950630 END: 19931109
DATE OF ORIG ENTRY: 19871110 DATE OF BASIC ELIG: 19881114MHP EXT MO: 00
LENGTH CURR ENL: 0 YRS PEF: 00 NONE
LENGTH CURR ENL: 00 MOS BONUS PEF:
LENGTH CURR EXT: 00 MONTHS COLLEGE FUND PEF:
NO EXT CURR ENL: 00 MGIB-SR STATUS: C INELIGIBLE-INSUFFICI
TOTAL MONTHS EXT: 00 MONTHS ACTIVE DUTY MGIB STATUS: 3 OVEBP CODE: 3
EFF DTE CURR EXT: 00000000
MONTHS LAST ENL EXT: 00
TIME LOST CURR ENL: 0000 DAYS DESIG MIL PILOT: 00000000
SOURCE OF INT ENTRY MIL SER: C 6 YEAR OBL START: 00000000
SOURCE OF ENTRY: 2121 OCAN CODE: OCAN EFF DATE: 00000000

POST 911 GIBILL ELIG BEGIN DT: 00000000 POST 911 GIBILL TR EDU BENE CD: 1
POST 911 GIBILL BENEFITS TR DT: 20100920 POST 911 GIBILL TR EDU OBL DT: 20140919

----- SERVICE INFORMATION -----

PRES GRADE: 05 DOR: 20111101 ACDU RUC: 31001 MCC: 013
SEL GRADE: DTE: 00000000 RESERVE RUC: 00000 MOB MCC:
FORMER RES RUC: FORMER RES MCC:
PROM RESTR STAT CD: 0 PROM RESTR TERM DTE: 00000000
PME COMPLETE FLAG: 1TAD RUC: 00000 MCC:
WORK STATION: 000 2TAD RUC: 00000 MCC:
BILLET DESCRIPTION: ADJUTANT
ANNIVERSARY DATE: 19951110
PEN: 0206496M RCN: 000264 FAPRUC: 00000 RESERVE MCC:
DCTB: 20100727 FORMER RUC: 01053 FUTURE RUC:
DATE JOINED PRES UNIT: 20130611 IND LCC CODE: 133 37 0735 NC ONSLOW
DATE JOINED SMCR: 19871110

RCLF REGION CODE: RCLF REGION ASSIGN DATE: 0
CLF REGION CODE: RCLF REGION ASSIGN DATE: 0
GEO LOC CODE: 285 RCLF COMPLETE FLAG:
GEO LOC DCTB: 201007 DEPLOY RET DATE: 00000000 DEPLOY STAT:
COMBAT SERV CODE: TU ROTATION TOUR DATE: 00000000
AST COMBAT TOUR: 20120303 OVERSEAS CONTROL DATE: 20120303
FF REMOVAL DATE: 00000000 LAST PHYS EXAM: 19910702
CO DATE: 20130621 PHA DATE: 00000000
AST SEP/DISCH DATE: 19910703 RESERVE UNIT JOIN DATE: 00000000
REASON: KGM1 ACCEPT COMMISSION OR WARRANT IN SAME BRANCH OF SERVICE

MOS: 0180 ADMOS1: ADMOS6: ADMOS11:
MOS: 0180 ADMOS2: ADMOS7: ADMOS12:
MOS: 0000 ADMOS3: ADMOS8:
MOS: 9702 ADMOS4: ADMOS9:
MOS ED: 20100802 ADMOS5: ADMOS10:
AW ENFORCE/COUNTERINTEL ID: ISSUE DATE: 00000000

----- PERSONAL INFORMATION -----

DATE OF BIRTH: 19701007 HOME OF RECORD: 600 51 0900 VA FAIRFAX
HOME OF RECORD ZIP CODE: 00000000

00000000 3

CITIZENSHIP: CA US COUNTRY OF ORIGIN: US UNITED STATES
BLOOD TYPE: 8 O POS CIVILIAN ED LEVEL: 16 COLLEGE-4
SEX: M CERT: K BACHELORS MAJOR: E1 U.S. NAVAL ACADEMY
RACE AGG CODE: E RACE CODE: E WHITE
POPULATION GROUP: WHITE
ETHNIC CODE: P EUROPEAN/ANGLO
RELIGION: 40 LUTHERAN CHURCHES
DNA DATE: 00000000 HIV-TESTED: 200107
GOOD CONDUCT MEDAL DATE: 00000000 SMCR MEDAL DATE: 00000000
ARMED FORCES RESERVE MEDAL DATE: 00000000

DUTY PREF1: Y22 TOP LEVEL SCHOOL
DUTY PREF2: Y80 EUROPE
DUTY PREF3: Y77 JOINT STAFF-OVERSEAS

----- PERSONAL INFORMATION -----

HOME TELEPHONE NUMBER: 000-000-0000
CELL PHONE NUMBER: 571-314-3914
SECONDARY PHONE NUMBER: 000-000-0000
WORK TELEPHONE NUMBER: 910-451-5403
WORK DSN PHONE NUMBER PREFIX: 751

MAILING ADDRESS: 2706 SETH WILLIAMS BLVD
CAMP LEJEUNE NC 285470000

ADDRESS VALIDATION: J MOL VALIDATION ONLY
PHYSICAL ADDRESS: 2706 SETH WILLIAMS BLVD
CAMP LEJEUNE NC 285470000

WORK EMAIL: HARRY.GARDNER@USMC.MIL

WORK EMAIL DATE: 20131223
PERSONAL EMAIL:

PERSONAL EMAIL DATE:
SECONDARY EMAIL:

----- RECORD INFORMATION -----

RECORD STATUS: 0 ACTIVE STATUS RESERVE RECORD STATUS: 9 SEPARATION STATUS
DISPUTED DATE: 00000000 DISPUTED DATA:
LAST SCREENING: 20140609 REASON: 2 ANNUAL SCREEN REQUEST
SCREENING RESULT: Z ANNUAL SCREENING COMPL FOR ACDU ONLY
AN DEPN CERTIFICATION DT: 20140609

----- DEPENDENTS INFORMATION -----

MARITAL STATUS: M MARRIED TOTAL NUMBER DEPENDENTS: 01
DEPN CERT CODE: NONE
DEPN GEO LOC CODE: 285 DATE DEPN LOC BEGAN: 20130715
CUSTODY STATUS CODE: 0
SERVICE SPOUSE CODE: FAM CARE PLAN VAL DT: 00000000
SERVICE SPOUSE DATE: 00000000

KILL	REL			GAIN		
EQ	DATE	CD	DOB	DEPN NAME	DATE	LOCATION
0001	999999	SP	19680818	LESLIE W GARDNER	20100522	133370735

ACCOUNTABILITY CODE: DISASTER EVENT CODE:

UNANNOUNCED PHONE:

UNANNOUNCED ADDRESS:

ZIP CODE: 000000000

----- BILLET IDENTIFICATION -----

FUTURE BILLET IDENT CODE: A0000000000

ASSIGNED BILLET IDENT CODE: A0000000000

PRESENT BILLET IDENT CODE: M3100101376

RESERVE BILLET IDENT CODE:

FAP BILLET IDENT CODE:

FORMER BILLET IDENT CODE: M0020300648

----- DUTY STATUS INFORMATION -----

DUTY STATUS: 1/DU
DUTY LIMIT: 0/RONE
DUTY LIMIT ED: 19930420
STR CAT: 0/ON DUTY W/BILLET THAT SERVES COMMAND MSN
STR CAT ED: 20130611
COMBAT CAS:
COMBAT CAS ED: 00000000

----- RETIREMENT INFORMATION -----

DATE 1ST ELIG RET (RES): 00000000
RET/FMCR DATE: 00000000
RET/FMCR FLAG:
RET/FMCR STAT:

BIR CERTIFICATION SIGNATURE REQUIRED FOR BOTH ACTIVE DUTY AND RESERVE MARINES:

MARINE: _____ DATE: _____ AUDITOR: _____ UD NUM: _____

MCTFS BASIC TRAINING RECORD

09/29/2014

12:23:10

EDIP1: 1048431247 NAME: GARDNER, HARRY L
RUC: 31001 COMPANY CODE: A PRES-GRADE: 05 RECSTAT: 0 COMP CODE: 11
PLT CODE: BCOR TRNGRP: H R-RECSTAT: 9 RCOMP-CODE:

----- UNIT TRAINING -----

BST/EST DATE: 000000 GAS MASK SIZE: U UNKNOWN
PERFORMED: 000 GAS MASK TYPE: T NONE
ATTEMPTED: 000 HELMET SIZE: C MEDIUM
SCORE: 00 JOINT QUAL LEVEL: 3
JOINT QUAL APPR DT: 20100802
JOINT PME LEVEL: 2
JOINT EXPERIENCE PT: 000.0

WATER SURVIVAL CODE: A WATER SURVIVAL INTERMEDIATE
WATER SURV REQUAL DATE: 201708

WEIGHT CONTROL STATUS: HEIGHT: 77
WEIGHT CONTROL DATE: 00000000 WEIGHT: 197
MIL APPEARANCE STATUS: BODY FAT: 00 %
MIL APPEARANCE DATE: 00000000 HT/WT/BF/EFF/DATE: 20131227
WT CNTL QY: 00 MILAP QY: 00 WITHIN HT/WT STANDARDS FLAG: Y

----- UNIT TRAINING -----

INCUR OBLIG SERV DATE: 00000000
INCUR OBLIG SERV CODE: INTELLIGENCE TRAINING HOURS: 00

----- SERVICE TRAINING -----

CODE	TRAINING DESCRIPTION	DATE
AO	ANNUAL OPSEC TRAINING	20140822
PV	OFFICER SUICIDE PREVENTION COURSE	20140604
AT	SEXUAL ASSAULT PREVENTION AND RESPONSE ANNUAL TRAINING	20140108
AV	ALCOHOL AND SUBSTANCE ABUSE PREVENTION AND CONTROL TRNG (SF)	20140108
AQ	ANNUAL MILITARY EO TRAINING (MEO)	20140108
PI	PERSONAL IDENTIFIABLE INFORMATION	20131202
DA	MC RECORDS MANAGEMENT COURSE	20130315
BC	NUTRITION TRAINING (SF)	20121205
BD	TOBACCO PREVENTION AND CESSATION (SF)	20121205
AF	SEXUAL HEALTH (STI/HIV) TRAINING (SF)	20121205
AB	ANTI-TERRORIST ANNUAL TRAINING DATE	20121205
ST	SEXUAL ASSAULT PREVENTION AND RESPONSE (ALL HANDS TRAINING)	20121023
TP	COMBATING TRAFFICKING IN PERSONS	20121012
BH	STRESS MANAGEMENT TRAINING (SF)	20120309
AH	DRUG LECTURE	20120309
A2	DRIVER AWARENESS (ALIVE AT 25, AAA-DIP, ETC)	20120309
AM	INFORMATION ASSURANCE AWARENESS TRAINING	20120124
AP	CODE OF CONDUCT TRAINING	20111125
BF	INJURY PREVENTION TRAINING (SF)	20111123
BE	PHYSICAL FITNESS TRAINING (SF)	20111123
AU	SUICIDE AWARENESS TRAINING (SF)	20111122
AJ	SECURITY LECTURE	20111101
ER	OQR/SRB SCAN TO E-RECORD COMPLETED	20111101
SP	SBP COUNSELING COMPLETED	20111019
D3	DAOT TIER 3 - SERVICE MEMBER TRAINING	20110308
AG	GAS CHAMBER	20101222
AS	RUNNING SUIT ISSUE	20090202
AL	BASIC ANNUAL LEADERSHIP TRAINING	20020801
AC	ANTI-TERRORIST DEPLOY TRAINING DATE	20010310

----- SERVICE SCHOOLS/SPECIAL SKILLS -----

CODE	SCHOOL/SPECIAL SKILLS	ST DATE	CODE	SCHOOL/SPECIAL SKILLS	ST DATE
L9L	COMMANDERS COURSE	PA 2013	HAB	MILITARY JUSTICE	PA 2013
LMZ	SENIOR OFFICER LEGAL ORIENT	PA 2013	M56	JOINT PME PH II (INTERMEDI	PA 2010
T4Y	COMMAND AND STAFF DEP (DCO	PA 2007	M5F	EXPEDITIONARY WARFARE SCHO	PA 2003
HEL	JOINT PSYCHOLOGICAL OPERAT	PA 1999	01Z	LEGAL ADMINISTRATIVE OFFIC	PA 1998
RMG	BASIC OFFICER COURSE	PA 1996	M02	WARFIGHTING SKILLS PROGRAM	PA 1998
81G	LAW OF WAR INSTRUCTORS COU	1997	M2F	LIGHT ARMORED RECONNAISSAN	1989
AAF	ADJUTANT COURSE	1997	031	INFANTRY RIFLEMAN	PA 1989

----- TEST SCORES -----

CLAS/ASGN TEST-TYPE: ASVAB 0 DATE: 19950823 GT/GCT: 133
 SCORES: GT -000 MM -000 CL -000 EL -000

ARMY RADIO CODE- SCORE: 000 DATE: 19880820 AFQT FORM #: 04C AFQT - 81
 ELEC/DP TEST- SCORE: 037 DATE: 19880820
 DLAB - SCORE: 000 DATE: 00000000

----- FOREIGN LANGUAGE PROFICIENCY -----

LANG	LANGUAGE	SOURCE	TEST	TYPE	SKILL
CODE	DESCRIPTION	CODE	RANGE	TEST	DATE
*** THERE ARE NO REMARKS FOR INPUT SSN OR EDIPI ***					

----- MARTIAL ARTS TRAINING -----

CODE	COMPL DATE	INSTR	DESC	REASON	REVOKE
		EXP		REVOKED	EFF DATE
MSA	20021017	00000000	UNQUALIFIED	0	00000000

----- INFORMATION ASSURANCE (IA) -----

*** THERE ARE NO REMARKS FOR INPUT SSN OR EDIPI ***

----- PHYSICAL FITNESS TEST -----

SCORE	DATE	CODE	CLASS	PULL-UPS	CRUNCHES	RUN
166	20130628	1	2	04	100	27:00
175	20120627	1	1	06	100	27:10

----- COMBAT FITNESS TEST -----

SCORE	EFF	CODE	CLASS	MOVEMENT	AMMO	MANEUVER
	DATE			TO CONTACT	LIFT	UNDER FIRE
262	20131227	2	2	03:43	064	03:30
284	20121120	2	1	03:25	080	02:53

----- MARKSMANSHIP -----

SERVICE RIFLE
 CURRENT QUAL DATE: 20000801 SCORE: 540 CLASS CD: E
 COURSE OF FIRE:
 SCORES TABLE 1/1A: 000 TABLE 2: 000

EXPERT QUALIFICATIONS: 04
 EXCEPTION:
 DISTINGUISHED DATE: 000000
 EXCEPTION EXPIRE DATE: 00000000

SERVICE PISTOL
 CURRENT QUAL DATE: 201407 SCORE: 292 CLASS CD: M
 COURSE OF FIRE: ELP
 EXPERT QUALIFICATIONS: 00
 EXCEPTION:
 EXCEPTION EXPIRE DATE: 00000000

DISTINGUISHED DATE: 000000

THE UNITED STATES MARINE CORPS

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Marine Corps Base Camp Lejeune

"Home of Expeditionary Forces in Readiness"

Lieutenant Colonel Harry L. Gardner

Commanding Officer, Headquarters and Support Battalion

PRINT 1

Lieutenant Colonel Gardner graduated from Woodbridge Senior High School in Woodbridge, Virginia in 1988. He joined the Marine Corps Reserve as part of the Category P program on November 10, 1987 and was assigned during 1987 to 1988 to the Supply Company, 4th Supply Battalion, 4th Marine Division. He attended Marine Corps Recruit Depot, Parris Island graduating as a Private First Class in November 1988. He was assigned to Delta Company, 4th Light Armored Vehicle Battalion. He then attended the Naval Academy Preparatory School at Newport, Rhode Island from June 1989 until May 1990. He was



returned to Delta Company, 4th Light Armored Infantry Battalion and subsequently deployed with 2nd Light Armored Infantry Battalion in Operation DESERT SHIELD/DESERT STORM. During this conflict, then Corporal Gardner received the Purple Heart for wounds received in action. Upon returning to the U.S. he was sent to the U.S. Naval Academy and became a member of the Class of 1995. He graduated in May 1995 with a BS in History and was commissioned as a Second Lieutenant.

After completing TBS in 1996, he was assigned as a Counterdrug Officer, Special Warfare Division at Quantico while awaiting his school seat to become an Adjutant. During this assignment he fielded and created two teams of 10 Marines and Sailors to deploy to South America to provide counterdrug and riverine assault training to friendly nations. In January 1997, 2nd Lt Gardner began training to become an Adjutant at Camp Johnson, North Carolina. Graduating as an Adjutant in March 1997, he was assigned to Marine Wing Support Group 27 as the Group Adjutant.

In 2000 he was transferred and became the Adjutant for the 24th Marine Expeditionary Unit (Special Operations Capable). During this tour of duty and over 15 months of sea duty, he supported and participated in Operation SOUTHERN WATCH, RAPID CHEETAH/JOINT GUARDIAN, DYNAMIC RESPONSE and Operation IRAQI FREEDOM.

In 2003 Captain Gardner, was transferred to the resident program at the Expeditionary Warfare School in Quantico Virginia as a student. Following graduation he was assigned to the Marine Barracks, Washington as the Adjutant. He was also assigned as the Logistics Officer and Officer in Charge of the Student Services Division, Marine Corps Institute Company. During this tour he completed the non-resident Command and Staff College and was promoted to Major in August 2005. During the three year assignment he was a White House Social Aide and as the Officer in Charge, of over 146 different social events within the White House, supporting thousands of guests to President George W. Bush.

In 2007 Major Gardner was transferred to the Chairman of the Joint Chiefs of Staff as the Deputy Branch Head, Personnel Readiness Division, J1 Manpower and Personnel Directorate. During this assignment he was assigned as a Joint Staff representative to work with the Supreme Headquarters Allied Powers Europe and the North Atlantic Treaty Organization on Joint Manning Documents providing US military support from all the services to numerous Joint Task Forces throughout Europe and Afghanistan.

In Jan 2010 he attended the Joint Armed Forces Staff College receiving his Joint Specialty Officer qualification.

In July 2010, he was transferred to the 2d Marine Aircraft Wing (2d MAW) at Marine Corps Air Station, Cherry Point to be the Deputy G-1. In September 2010, he was assigned as the Assistant Chief of Staff G-1, 2d MAW and subsequently assigned as the Assistant Chief of Staff G-1, 2d MAW Forward, participating in Operation ENDURING FREEDOM. He returned in March 2012 and returned to his duties as the Assistant Chief of Staff G-1, 2d MAW.

Lieutenant Colonel Gardner's personal awards include the Joint Staff Identification Badge, Purple Heart Medal, Defense Meritorious Service Medal, Meritorious Service Medal w/ 3 Gold Stars in lieu of fourth award, Navy / Marine Corps Commendation Medal, Joint Service Achievement Medal w/ oak leaf, Combat Action Ribbon, and the Presidential Unit Commendation.

PRINT 1

CAMP LEJEUNE NEWS

Service members work to become roadside investigators
August 15, 2014

Officials millgate wild fire in tabletop exercise scenario
August 15, 2014

US Coast Guard celebrate 224 years of service
August 14, 2014

Midshipmen experience USMC with CORTAMID
August 14, 2014

Phoenixes rise from Intramural ashes to win Summer Slam Softball Tournament
August 09, 2014

MARINE CORPS NEWS

Marines prove their mettle in CG's Cup Tactical Athlete Challenge
September 17, 2014

Combat Center Marines aid Desert Arc at Camp Ronald McDonald
September 17, 2014

Recruits experience first Marine Corps Inspection
September 17, 2014

Marine Forces South Commander Hosts Fall Family Day At Miami Seaquarium
September 17, 2014

Commanding General's Cup (Spartans vs Outlaws)
September 16, 2014

ENCL (4)

(b) (6)

From: Griffith CIV Scott M (b) (6)
Sent: Monday, September 29, 2014 1:33 PM
To: (b) (6)
Cc: Griffith CIV Scott M
Subject: RE: COMMAND INVESTIGATION
Signed By: (b) (6)

(b) (6)

I've replied to your questions below: Your questions to me begin with a "-" and my responses begin with a "#"

VR

Scott Griffith
Comptroller MCIEAST MCB Lejeune
910 451 2427 (DSN 751)

-----Original Message-----

From: (b) (6)
Sent: Monday, September 29, 2014 11:55 AM
To: Griffith CIV Scott M
Subject: COMMAND INVESTIGATION

Mr Griffith,

I know you are very busy, but if you could write me an email that covers the below listed parts of our interview, I can wrap this investigation up today:

- How long you were on active duty
- # I was on active duty for 21 years and 5 months
- You retired with a tan MCMAP belt
- # I did retire with a tan MCMAP belt
- Robert Felker retirement (his pay grade), your temporary promotion to fill his position
- # Robert Felker retired as a GS 15. I was temporarily promoted to a GS15. The GS15 temporary promotion was for NTE 120 days (4 May - 24 Aug) I am filling in as the acting Comptroller, but due to HR rules could not be temp promoted longer than 120 days.
- When the GS-15 position was advertised and whether you applied
- # Robert Felker's position was advertised on 17 September 2014 and closed on 22 September 2014. I did apply for the position.
- Did Mr Felker share your desire to keep the REA section on the second floor?
- # Yes, Mr. Felker did want to keep the REA section on the second deck of Bldg 8.
- How many employees does the comptroller have?
- # The comptroller has 49 structure billets. We currently have 6 vacancies and 1 overstaff, for a total of 43 bodies in seats.

- How many employees does H&S Bn have?

I've never actually counted the number of employees however I've been told H&S has approx. 30 employees occupying the 2nd deck of bldg. 8.

- What happened to plan to move some building 8 personnel to building 11

(Didn't building 11 fill up with Penn University and the GCE ITF or something?)

There were discussions about moving some people into building 11 but that discussion was tabled since Penn University we allowed to move in. As far as I'm aware there was never a decision made with respect to who would eventually move to building 11.

- Did you have an argument about the space allocation issue about six months ago? It apparently degraded into a shouting match.

I went to have a discussion with LtCol Gardner in his office sometime between Jan and Mar. The discussion did turn into a shouting match and I left his office without further incident.

- Did you shove LtCol Gardner prior to striking him with you fist

I believe my initial contact with LtCol Gardner was striking him with my fist however there may have been ancillary contact when he shoved me. My first conscious contact with him was my punch.

- Did LtCol Gardner order you to back away from him?

#LtCol Gardner did not order me to back away from him. He did indicate that I had better get out of his personal space, or else. And he did shove me and ask me if I wanted him in my personal space.

- Do you know the street address for Building 8?

#I do not know the street address for building 8.

- How long the current configuration has existed at Building 8 (with REA on the second floor)

The current configuration of bldg. 8 (Comptroller on first deck, with REA on second deck) has existed since sometime in 2007 or 2008. But at the very least it has been this configuration for more than 7 years.

(b) (6)

AUTHORIZATION FOR DISCLOSURE OF MEDICAL OR DENTAL INFORMATION

PRIVACY ACT STATEMENT

In accordance with the Privacy Act of 1974 (Public Law 93-579), the notice informs you of the purpose of the form and how it will be used. Please read it carefully.

AUTHORITY: Public Law 104-191; E.O. 9397 (SSAN); DoD 6025.18-R.

PRINCIPAL PURPOSE(S): This form is to provide the Military Treatment Facility/Dental Treatment Facility/TRICARE Health Plan with a means to request the use and/or disclosure of an individual's protected health information.

ROUTINE USE(S): To any third party or the individual upon authorization for the disclosure from the individual for: personal use; insurance; continued medical care; school; legal; retirement/separation; or other reasons.

DISCLOSURE: Voluntary. Failure to sign the authorization form will result in the non-release of the protected health information.

This form will not be used for the authorization to disclose alcohol or drug abuse patient information from medical records or for authorization to disclose information from records of an alcohol or drug abuse treatment program. In addition, any use as an authorization to use or disclose psychotherapy notes may not be combined with another authorization except one to use or disclose psychotherapy notes.

SECTION I - PATIENT DATA

1. NAME (Last, First, Middle Initial) (b) (6)	2. DATE OF BIRTH (YYYYMMDD) (b) (6)	3. SOCIAL SECURITY NUMBER (b) (6)
4. PERIOD OF TREATMENT: FROM - TO (YYYYMMDD) NA 2014 09 17	5. TYPE OF TREATMENT (X one) <input type="checkbox"/> OUTPATIENT <input type="checkbox"/> INPATIENT <input type="checkbox"/> BOTH	

SECTION II - DISCLOSURE

6. I AUTHORIZE <u>Naval Hospital / EMS / Fire</u> TO RELEASE MY PATIENT INFORMATION TO: <small>(Name of Facility/TRICARE Health Plan)</small>	
a. NAME OF PHYSICIAN, FACILITY, OR TRICARE HEALTH PLAN (b) (6)	b. ADDRESS (Street, City, State and ZIP Code) CACO
c. TELEPHONE (Include Area Code) (b) (6)	d. FAX (Include Area Code)
7. REASON FOR REQUEST/USE OF MEDICAL INFORMATION (X as applicable) <input type="checkbox"/> PERSONAL USE <input type="checkbox"/> CONTINUED MEDICAL CARE <input type="checkbox"/> SCHOOL <input type="checkbox"/> OTHER (Specify) <input type="checkbox"/> INSURANCE <input type="checkbox"/> RETIREMENT/SEPARATION <input checked="" type="checkbox"/> LEGAL	
8. INFORMATION TO BE RELEASED Any Records from 2014 09 17	
9. AUTHORIZATION START DATE (YYYYMMDD) 2014 09 17	10. AUTHORIZATION EXPIRATION <input type="checkbox"/> DATE (YYYYMMDD) 2014 10 30 <input type="checkbox"/> ACTION COMPLETED

SECTION III - RELEASE AUTHORIZATION

I understand that:

a. I have the right to revoke this authorization at any time. My revocation must be in writing and provided to the facility where my medical records are kept or to the TMA Privacy Officer if this is an authorization for information possessed by the TRICARE Health Plan rather than an MTF or DTF. I am aware that if I later revoke this authorization, the person(s) I herein name will have used and/or disclosed my protected information on the basis of this authorization.

b. If I authorize my protected health information to be disclosed to someone who is not required to comply with federal privacy protection regulations, then such information may be re-disclosed and would no longer be protected.

c. I have a right to inspect and receive a copy of my own protected health information to be used or disclosed, in accordance with the requirements of the federal privacy protection regulations found in the Privacy Act and 45 CFR 5164.524.

d. The Military Health System (which includes the TRICARE Health Plan) may not condition treatment in MTFs/DTFs, payment by the TRICARE Health Plan, enrollment in the TRICARE Health Plan or eligibility for TRICARE Health Plan benefits on failure to obtain this authorization.

I request and authorize the named provider/treatment facility/TRICARE Health Plan to release the information described above to the named individual/organization indicated.

11. SIGNATURE OF PATIENT/PARENT/LEGAL REPRESENTATIVE (b) (6)	12. RELATIONSHIP TO PATIENT <small>(If applicable)</small>	13. DATE (YYYYMMDD) 2014 09 22
---	---	---------------------------------------

SECTION IV - FOR STAFF USE ONLY (To be completed only upon receipt of written revocation)

14. X IF APPLICABLE: <input type="checkbox"/> AUTHORIZATION REVOKED	15. REVOCATION COMPLETED BY	16. DATE (YYYYMMDD)
17. IMPRINT OF PATIENT IDENTIFICATION PLATE WHEN AVAILABLE SPONSOR NAME: SPONSOR RANK: FMP/SPONSOR SSN: BRANCH OF SERVICE: PHONE NUMBER:		

SAMPLE PRIVACY ACT STATEMENT FORMAT - JAGMAN INVESTIGATION

1. **AUTHORITY:** 44 U.S.C. § 3101; 5 U.S.C. § 301. Specify, if possible, other statutory authority listed below that is peculiarly applicable to the matter under investigation.

Authorities applicable to various investigations:

- a. Requirement that enlisted members make up time lost due to misconduct or abuse of drugs or alcohol. 10 U.S.C. § 972.
- b. Retirement or separation for physical disability. 10 U.S.C. §§ 1201-1221.
- c. Manual for Courts-Martial.
- d. Uniform Code of Military Justice. 10 U.S.C. §§ 815, 832, 869, 873, 935, 936, and 938-940.
- e. Military Claims Act. 10 U.S.C. § 2733.
- f. Foreign Claims Act. 10 U.S.C. §§ 2734, 2734a, 2734b.
- g. Emergency payment of claims. 10 U.S.C. § 2736.
- h. Non-Scope claims. 10 U.S.C. § 2737.
- i. Duties of Secretary of the Navy. 10 U.S.C. § 5013.
- j. Duties of the Office Chief of Naval Operations. 10 U.S.C. §§ 5031-5033, 5035-5036.
- k. Duties of the Bureaus and Offices of the Department of the Navy and duties of the Judge Advocate General. 10 U.S.C. §§ 5021-5024, 5131-5133, 5135, 5137-38, 5141-5142a, 5148-5150.
 - l. Duties of the Commandant of the Marine Corps. 10 U.S.C. § 5043.
 - m. Reservists' disability and death benefits. 10 U.S.C. § 1074.
 - n. Requirement of exemplary conduct. 10 U.S.C. § 5947.
 - o. Promotion of accident and occupational safety by Secretary of the Navy. 10 U.S.C. § 7205.
 - p. Admiralty claims. 10 U.S.C. § 7622-7623.
 - q. Federal Tort Claims Act. 28 U.S.C. §§ 1346, 2671-2680.
 - r. Financial liability of accountable officers. 31 U.S.C. §§ 3521, 3527.

s. Military Personnel and Civilian Employees' Claims Act of 1964. 31 U.S.C. §§ 240-243.

t. Federal Claim Collection Acts. 31 U.S.C. §§ 3521, 3526, 3529, 3701-3702, 3717-3718.

u. Forfeiture of pay for time lost due to incapacitation caused by alcohol or drug use. 37 U.S.C. § 802.

v. Eligibility for certain veterans' benefits. 38 U.S.C. § 105.

w. Postal claims. 39 U.S.C. §§ 406, 2601.

x. Medical Care Recovery Act. 42 U.S.C. §§ 2651-2653.

y. Public Vessels Act. 46 U.S.C. §§ 781-790.

z. Suits in Admiralty Act. 46 U.S.C. §§ 741-752.

aa. Admiralty Extension Act. 46 U.S.C. § 740.

bb. Transportation Safety Act. 49 U.S.C. § 1901.

2. **PRINCIPAL PURPOSE(S):** The information which will be solicited is intended principally for the following purpose(s):

[Specify each purpose listed below for which the record of the particular investigation could reasonably be used:]

a. Determinations on the status of personnel regarding entitlements to pay during disability, disability benefits, severance pay, retirement pay, increases of pay for longevity, survivor's benefits, involuntary extensions of enlistments, dates of expiration of active obligated service, and accrual of annual leave.

b. Determinations on disciplinary or punitive action.

c. Determinations on liability of personnel for losses of, or damage to, public funds or property.

d. Evaluation of petitions, grievances, and complaints.

e. Adjudication, pursuit, or defense of claims for or against the Government or among private parties.

f. Other determinations, as required, in the course of naval administration.

g. Public information releases.

h. Evaluation of procedures, operations, material, and designs by the Navy and contractors, with a view to improving the efficiency and safety of the Department of the Navy.

3. **ROUTINE USES:** In addition to being used within the Departments of the Navy and Defense for the purpose(s) indicated above, records of investigations are routinely furnished, as appropriate, to the Department of Veterans Affairs for use in determinations concerning entitlement to veterans' and survivors' benefits; to Servicemembers' Group Life Insurance administrators for determinations concerning payment of life insurance proceeds; to the U.S. General Accounting Office for purposes of determinations concerning relief of accountable personnel from liability for losses of public funds and related fiscal matters; and to the Department of Justice for use in litigation involving the Government. Additionally, such investigations are sometimes furnished to agencies of the Department of Justice and to State or local law enforcement and court authorities for use in connection with civilian criminal and civil court proceedings. The records of investigations are provided to agents and authorized representatives of persons involved in the incident, for use in legal or administrative matters. The records are provided to contractors for use in connection with settlement, adjudication, or defense of claims by or against the Government, and for use in design and evaluation of products, services, and systems. The records are also furnished to agencies of the Federal, State, or local law enforcement authorities, court authorities, administrative authorities, and regulatory authorities, for use in connection with civilian and military criminal, civil, administrative, and regulatory proceedings and actions.

4. **MANDATORY/VOLUNTARY DISCLOSURE - CONSEQUENCES OF REFUSING TO DISCLOSE:**

a. Where disclosure is voluntary, as usually is the case, use one of the following statements, or a combination of the following statements, as applicable:

(1) Where an individual is a subject of an investigation for purpose 2a or 2b, above: "Disclosure is voluntary. You are advised that you are initially presumed to be entitled to have the [personnel determinations] [disciplinary determinations] in paragraph 2, above, resolved in your favor, but the final determination will be based on all the evidence in the investigative record. If you do not provide the requested information, you will be entitled to a favorable determination if the record does not contain sufficient evidence to overcome the presumption in your favor. If the completed record does contain sufficient evidence to overcome the presumption in your favor, however, your election not to provide the requested information possibly could prevent the investigation from obtaining evidence, which may be needed to support a favorable determination."

(2) Where an individual is a subject of an investigation for purpose 2c, above: "Disclosure is voluntary, and if you do not provide the requested information, any determination as to whether you should be held liable for repayment of the Government's loss would be based on the other evidence in the investigative record."

(3) Where the individual is a claimant or potential claimant in an investigation for purpose 2e, above: "Disclosure is voluntary, but refusal to disclose the requested information could prevent the investigation from

obtaining sufficient information to substantiate any claim which you have made or may make against the Government as a result of the incident under investigation."

(4) Where the individual was treated at Government expense for injuries caused by third parties in connection with a matter being investigated for purpose 2e, above: "Disclosure is voluntary, but refusal to disclose the requested information could result in a requirement for you to assign to the Government your medical care claims against third parties in connection with the incident, or authorize withholding of the records of your treatment in a Naval medical facilities."

(5) In any other case: "Disclosure is voluntary, and if you do not provide the requested information, any determinations or evaluations made as a result of the investigation will be made on the basis of the evidence that is contained in the investigative record."

b. In the unusual situation where a specific statute, regulation, or lawful order of competent authority requires an individual to disclose particular information for the Government's benefit in furtherance of a Government interest, policy, or objective, the following statement should be used: "Disclosure of (specify the particular relevant information required) is mandatory under (cite the statute, regulation, or order), and refusal to disclose that information will subject you to possible disciplinary or criminal proceedings. Disclosure of any other information requested is voluntary, (and there will be no adverse effects if you elect not to disclose it) (but election not to disclose the information could"

(b) (6)

22 Sep 2014

INCIDENT REPORT	INCIDENT NUMBER	REPORT NUMBER	REPORT TYPE
	17SEP14-24LE-06398-7GMA	143100106398 REVISION 1	INITIAL

PRIVACY ACT STATEMENT

AUTHORITY: 5 U.S.C. 301; 10 U.S.C. 5031; 44 U.S.C. 3103 and EO 9397
PRINCIPAL PURPOSE: Used to record information and details of criminal activity which may require investigative action by commanding officers, supervisors, security police, NCIS special agents, etc. Used to provide information to the appropriate individuals within DoD organizations who ensure that proper legal and administrative action is taken.
ROUTINE USES: Information may be disclosed to local, county, state and federal law enforcement or investigatory authorities for investigation and possible criminal prosecution or civil court action. Information extracted from this form may be used in other related criminal and/or civil proceedings.
DISCLOSURE IS VOLUNTARY: SSN is used to positively identify the individual making the statement and as a conduit to check past criminal activity records.

SECTION I. ADMINISTRATIVE

Incident Subject : ASSAULT

Date Received 17-SEP-2014	Time Received 1509	Incident Received By Telephone	Start Date / Time of Incident 17-SEP-2014 1430	End Date / Time of Incident 17-SEP-2014 1505
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Weather : Cloudy **Lighting :** Daylight

SECTION II. COMPLAINANT(S)

SECTION III. OFFENSE(S)

OFFENSE

Offense : Assault: Simple	Statutory Basis : UCMJ	On Base : YES	Offense Status : COMPLETED
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Location : BUILDING 8 (HQSPTBN) CAMP LEJEUNE, North Carolina **Location Type :** Commercial/Office Building

Bias Motivation : No Bias

Offender Used : **Type Weapon / Force Used :** Bodily Force

Type of Criminal Activity :

OFFENSE

Offense : Assault (Aggravated) - Non Family - Strong Arm	Statutory Basis : State	On Base : YES	Offense Status : COMPLETED
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Location : BUILDING 8 CAMP LEJEUNE, North Carolina **Location Type :** Commercial/Office Building

Bias Motivation : No Bias

Offender Used : **Type Weapon / Force Used :** Bodily Force

Type of Criminal Activity :

OFFENSE

Offense : Extortion - Threat Injure Person	Statutory Basis : State	On Base : YES	Offense Status : COMPLETED
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Location : BUILDING 8 CAMP LEJEUNE, North Carolina **Location Type :** Commercial/Office Building

Bias Motivation : Unknown Bias

Offender Used : **Type Weapon / Force Used :** None

Type of Criminal Activity :

SECTION IV. PROPERTY

SECTION IV. PROPERTY - NARCOTIC(S)

SECTION IV. PROPERTY - VEHICLE(S)

SECTION V. VICTIMS(S)

VICTIM	Victim Type Individual	DD2701 Issued 17-SEP-2014
Name	ID Num	Rank

ENCL (6)

GARDNER, HARRY L			SSN / 228333664		Lieutenant Colonel	
Branch of Service	Personnel Type	Status	Date of Birth	Place of Birth		
Marine Corps	MILITARY	Regular (Active)	07-OCT-1970	FALLS CHURCH VA, United States		
Sex : Male	Race : White	Ethnicity : Not Hispanic		Resident of Jurisdiction :		
Address 2706 SETH WILLIAMS BLVD CAMP LEJEUNE, NC , United States 28542						
Organization HQSPTBN MCB			UIC / RUC 31001		Work Telephone 451-5403	
ADDITIONAL VICTIM INFORMATION						
Offense(s) Committed Against This Victim : 2 - Assault (Aggravated) - Non Family - Strong Arm , 3 - Extortion - Threat Injure Person						
Relationship of Victim to Suspect(s) : GARDNER,HARRY - Otherwise Known , GRIFFITH,SCOTT - Otherwise Known						
Aggravated Assault Circumstances : Unknown						
Injury Type(s): Apparent Minor Injury						
VICTIM			Victim Type Individual		DD2701 Issued 17-SEP-2014	
Name GRIFFITH, SCOTT MATTHEW			ID Num SSN / (b) (6)		Rank	
Branch of Service	Personnel Type	Status	Date of Birth	Place of Birth		
	CIVILIAN	CIVILIAN EMPLOYEE	(b) (6)	(b) (6)		
Sex (b) (6)	Race : (b) (6)	Ethnicity : (b) (6)		Resident of Jurisdiction :		
Address (b) (6)						
Organization IMEF G8 COMPTROLLER			UIC / RUC		Work Telephone 451-2427	
ADDITIONAL VICTIM INFORMATION						
Offense(s) Committed Against This Victim : 1 - Assault: Simple						
Relationship of Victim to Suspect(s) : GARDNER,HARRY - Relationship Unknown						
Aggravated Assault Circumstances :						
Injury Type(s): None						
SECTION VI. WITNESS/SPONSOR - WITNESS(S)						
WITNESS					DD2701 Issued : 17-SEP-2014	
Name FAUNCE, JASON BANCROFT			ID Num SSN / (b) (6)		Rank Captain	
Branch of Service	Personnel Type	Status	Date of Birth	Place of Birth		
Navy	MILITARY	Regular (Active)	(b) (6)	(b) (6)		
Address (b) (6)						
Organization HQSPTBN MCB			UIC / RUC 31001		Work Telephone	
WITNESS					DD2701 Issued :	
Name WIECZYNSKI, TIMOTHY BRIAN			ID Num SSN / (b) (6)		Rank Staff Sergeant	
Branch of Service	Personnel Type	Status	Date of Birth	Place of Birth		
Marine Corps	MILITARY	Regular (Active)	(b) (6)	(b) (6)		
Address (b) (6)						
Organization HQSPTBN MCB			UIC / RUC 31001		Work Telephone	
WITNESS					DD2701 Issued : 17-SEP-2014	
Name ZAGOLA, MICHAEL E JR			ID Num SSN / (b) (6)		Rank Chief Warrant Officer 2	
Branch of Service	Personnel Type	Status	Date of Birth	Place of Birth		
Marine Corps	MILITARY	Regular (Active)	(b) (6)	(b) (6)		
Address (b) (6)						

<u>Organization</u> A CO HQSPTBN MCB		<u>UIC / RUC</u> 31001		<u>Work Telephone</u> 451-0033	
SECTION VI. WITNESS/SPONSOR - SPONSOR(S)					
SECTION VII. SUSPECT(S) / ARRESTEE(S)					
SUSPECT					
<u>Name</u> GARDNER, HARRY L			<u>ID Num</u> SSN / 228333664		<u>Rank</u> Lieutenant Colonel
<u>Branch of Service</u> Marine Corps	<u>Personnel Type</u> MILITARY	<u>Status</u> Regular (Active)	<u>Date of Birth</u> 07-OCT-1970	<u>Place of Birth</u> FALLS CHURCH VA, United States	
<u>Address</u> 2706 SETH WILLIAMS BLVD CAMP LEJEUNE, NC , United States 28542					
<u>Organization</u> HQSPTBN MCB		<u>UIC / RUC</u> 31001		<u>Work Telephone</u> 451-5403	
<u>Known Alias :</u>					
ADDITIONAL SUSPECT / ARRESTEE INFORMATION					
<u>Offense(s) Committed by This Suspect/Arrestee:</u> Assault: Simple - Principal					
SUSPECT / ARRESTEE DESCRIPTION					
<u>Sex</u> Male	<u>Race</u> White	<u>Ethnicity</u> Not Hispanic		<u>Resident of Jurisdiction</u> Resident	
<u>Hair Color</u> Brown	<u>Eye Color</u> Blue	<u>Height (Inches)</u> 72	<u>Weight (lbs.)</u> 196	<u>Body Build</u> Medium	<u>Dexterity</u> Right-Handed
<u>Hair Type(s):</u> Short		<u>Hair Style(s):</u> Crewcut		<u>Facial Hair :</u> Clean	
<u>Complexion :</u> Clear				<u>Appearance :</u> Neat	
<u>Attire :</u> Casual Attire		<u>Speech :</u>		<u>Demeanor :</u> Calm , Polite	
IDENTIFYING MARKS					
<u>Type</u>	<u>Location</u>	<u>Description</u>			
ARRESTEE INFO					
<u>Date Arrested :</u>		<u>Type of Arrest :</u>			
<u>Multiple Clearance :</u>		<u>Disposition of Juvenile :</u>			
<u>Suspect Was Armed With :</u>					
SUSPECT					
<u>Name</u> GRIFFITH, SCOTT MATTHEW			<u>ID Num</u> SSN / (b) (6)		<u>Rank</u>
<u>Branch of Service</u>	<u>Personnel Type</u> CIVILIAN	<u>Status</u> CIVILIAN EMPLOYEE	<u>Date of Birth</u> (b) (6)	<u>Place of Birth</u> WI, United States	
<u>Address</u> (b) (6)					
<u>Organization</u> IIMEF G8 COMPTROLLER		<u>UIC / RUC</u>		<u>Work Telephone</u> 451-2427	
<u>Known Alias :</u>					
ADDITIONAL SUSPECT / ARRESTEE INFORMATION					
<u>Offense(s) Committed by This Suspect/Arrestee:</u> Assault (Aggravated) - Non Family - Strong Arm - Principal , Extortion - Threat Injure Person - Principal					
SUSPECT / ARRESTEE DESCRIPTION					
<u>Sex</u> (b) (6)	<u>Race</u> (b) (6)	<u>Ethnicity</u> (b) (6)		<u>Resident of Jurisdiction</u> Non Resident	
<u>Hair Color</u> (b) (6)	<u>Eye Color</u> (b) (6)	<u>Height (Inches)</u> (b) (6)	<u>Weight (lbs.)</u> (b) (6)	<u>Body Build</u> (b) (6)	<u>Dexterity</u> (b) (6)
<u>Hair Type(s):</u> (b) (6)		<u>Hair Style(s):</u>		<u>Facial Hair :</u> (b) (6)	
<u>Complexion :</u> Clear				<u>Appearance :</u> (b) (6)	
<u>Attire :</u> Business Attire		<u>Speech :</u>		<u>Demeanor :</u> Calm , Polite	
IDENTIFYING MARKS					
<u>Type</u>	<u>Location</u>	<u>Description</u>			
ARRESTEE INFO					

Date Arrested :		Type of Arrest :	
Multiple Clearance :		Disposition of Juvenile :	
Suspect Was Armed With :			
SECTION VIII. ADDITIONAL POLICE OFFICERS			
POLICE OFFICER			
Name (b) (7) (C)			Rank
Branch of Service	Personnel Type CIVILIAN	Status CIVILIAN EMPLOYEE	Organization PMO
SECTION IX. NARRATIVE			
<p>At 1505, 17 Sep 14, Officer (b) (7) (C) and I, were notified via dispatch of an assault which occurred at building 8 (HQSPTBN HQ), Camp Lejeune, NC.</p> <p>At 1509, 17 Sep 14, we arrived on scene and made contact with GRIFFITH. GRIFFITH stated he and GARDNER had been involved in a verbal altercation which escalated to a physical altercation. GRIFFITH stated the verbal altercation began while discussing space allocation within the office building. GRIFFITH stated during the verbal altercation, he had gotten into GARDNER's personal space and began to call him derogatory names. GRIFFITH stated GARDNER told him to get out of his personal space at which GRIFFITH stated to GARDNER, "what are you going to do about it?" GRIFFITH stated GARDNER then "aggressively" placed his hands on GRIFFITH's chest and shoved him. GRIFFITH stated he felt threatened at this time and decided to defend himself by striking GARDNER in the face. GRIFFITH stated GARDNER then began to advance on him at which time GRIFFITH grabbed GARDNER in a head lock and proceeded to strike him in the head and face. At this time two Marines had intervened and broke up the altercation.</p> <p>At 1535, 17 Sep 14, contact was made with ZAGOLA who provided a written statement. ZAGOLA stated he had been working at his desk when the altercation began. ZAGOLA stated he had gone to investigate the commotion. Upon arriving he observed GARDNER and GRIFFITH involved in a physical altercation. At this point, ZAGOLA stated he intervened and broke up the altercation. During the investigation, ZAGOLA stated he did not witness who started the altercation.</p> <p>At 1617, 17 Sep 14, GRIFFITH was advised his civilian rights which he acknowledged, signed and provided a written statement. GRIFFITH'S written statement corroborated his previous verbal statement.</p> <p>At 1632, 17 Sep 14, contact was made with FAUNCE. FAUNCE provided a written statement stating he was attending a meeting with GARDNER and GRIFFITH to discuss space allocation within building 8. FAUNCE stated during the meeting, a verbal altercation ensued between GARDNER and GRIFFITH and escalated into a physical altercation. FAUNCE stated during the verbal altercation, GRIFFITH had stepped into GARDNER's personal space and began to shout profanities at him while pointing in his face. FAUNCE stated GARDNER had continuously stated to GRIFFITH to get out of his personal space and GRIFFITH would not back down. FAUNCE stated at this point, GARDNER placed his hand on GRIFFITH's chest and pushed him back about 3-4 inches. FAUNCE stated at this time, he had turned to open the door and this is when the physical altercation began. FAUNCE stated when he turned back around, he observed both men grappling with each other and it seemed as though GRIFFITH was on top of GARDNER. FAUNCE stated he witnessed GRIFFITH throwing punches at GARDNER. FAUNCE stated the altercation was broken up by two Marines.</p> <p>At 1637, 17 Sep 14, GARDNER was advised his military rights which he acknowledged, signed and provided a written statement. GARDNER stated he had a scheduled meeting with FAUNCE and GRIFFITH to discuss space allocation. During the discussion GRIFFITH and GARDNER became involved in a verbal altercation. At this time GRIFFITH stepped into his personal space yelling obscenities towards him. GARDNER stated he repeatedly asked GRIFFITH to get out of his personal space. The two eventually touched due to there being no space. GARDNER stated once this occurred he placed his hand on GRIFFITH's chest and pushed them both away from each other to create space. After GARDNER pushed GRIFFITH away, GRIFFITH came back and pushed GARDNER and told him to "Get the fuck out of his space." After being pushed GARDNER stated he reacted to keep from falling into the door, and placed his hand on GRIFFITH's chest. GARDNER went on to state once this happened GRIFFITH pushed him again which is when he lost his balance. GRIFFITH proceeded to put him in a headlock and began to strike him in the face. While being struck, GARDNER stated he reached back to attempt to strike GRIFFITH in the genitals in order to break free which is when WIECZYNSKI intervened and broke up the altercation. GARDNER proceeded to go back to his office and inform the Deputy Commanding General MCIEAST of what had happened.</p> <p>At 1738, 17 Sep 14, we secured without further incident.</p> <p>At 1200, 18 Sep 14, we made contact with WIECZYNSKI. WIECZYNSKI stated during the time of the incident he was sitting at his desk across the hall when he heard the commotion. WIECZYNSKI stated he got up to see what was going on. Upon entering the space where GARDNER and GRIFFITH were, WIECZYNSKI stated he observed GARDNER in the corner of the room and GRIFFITH holding GARDNER in a headlock. WIECZYNSKI further stated while GRIFFITH had GARDNER in a headlock, he was repeatedly striking GARDNER in the face. WIECZYNSKI stated he had intervened and restrained GRIFFITH in an attempt to stop the assault. At this point, WIECZYNSKI stated GRIFFITH was still attempting to further assault GARDNER. WIECZYNSKI stated GRIFFITH also stated "I told you next time I will fucking kill you!" WIECZYNSKI stated this was said repeatedly by GRIFFITH to GARDNER. WIECZYNSKI stated he was able to separate GRIFFITH from GARDNER and GARDNER had collected himself and stated to GRIFFITH "You're done, you're done!" and proceeded to his office. WIECZYNSKI stated he has witnessed GRIFFITH in a heated verbal altercation with GARDNER in the past, but was unable to be more specific about the incident.</p> <p>Notification:</p> <p>At 1615, 17 Sep 14, MCIEAST CHIEF OF STAFF, Col McCarthy, was notified.</p>			

ENCLOSURE(S)	
ENCL #	DESCRIPTION
1	VOLUNTARY STATEMENT (ZAGOLA)
2	CIVILIAN RIGHTS ADVISEMENT (GRIFFITH)
3	VOLUNTARY STATEMENT (FAUNCE)
4	MILITARY RIGHTS ADVISEMENT (GARDNER)
5	FINGER PRINT CARDS (2) (GARDNER)
6	DIGITAL PHOTO
7	DIGITAL PHOTO
8	DIGITAL PHOTO
9	DIGITAL PHOTO
10	DIGITAL PHOTO
11	DIGITAL PHOTO
12	DIGITAL PHOTO
13	VOLUNTARY STATEMENT (WIECZYNSKI)

SECTION X. REPORTING/APPROVING OFFICIALS			
Reporting Official (b) (7) (C)	Date 18-SEP-2014	Approving Official (b) (7) (C) Police Officer	Date 18-SEP-2014 FINAL APPROVED ON 18-SEP-2014

SECTION XI. ADMINISTRATIVE DISPOSITION			
Victim/Witness Notification		Incident Status	Date Cleared
2 Victims Notified	2 Witnesses Notified		
Referred To/Assumed By :			
Distribution :			

DEPARTMENT OF THE NAVY

CIVILIAN SUSPECT'S ACKNOWLEDGMENT AND WAIVER OF RIGHTS

Place: BUILDING 8

1617 / 20140917 & JS

I, GRIFFITH, SCOTT, MATTHEW / CIV / (b) (6) & JS

have been advised by OFC (b) (7) (C)

that I am suspected of MUTUAL FRAY & JS

I have also been advised that:

- JS (1) I have the right to remain silent and make no statement at all;
JS (2) Any statement I do make can be used against me in a court of law or other judicial or administrative proceeding;
JS (3) I have the right to consult with a lawyer prior to any questioning. This lawyer may be a civilian lawyer retained by me at no cost to the United States, or, if I cannot afford a lawyer, one will be appointed to represent me at no cost to me;
JS (4) I have the right to have my retained or appointed lawyer present during this interview; and
JS (5) I may terminate this interview at any time, for any reason.

JS I understand my rights as related to me and as set forth above. With that understanding, I have decided that I do not desire to remain silent, consult with a retained or appointed lawyer, or have a lawyer present at this time. I make this decision freely and voluntarily. No threats or promises have been made to me. JS (b) (6)

Signature

Time & Date: 1622 / 20140917

(b) (7) (C)

Witnessed:

Time & Date: 1622 / 20140917

At this time, I, GRIFFITH, SCOTT, MATTHEW / CIV / 1978 desire to make the following voluntary statement. This statement is made with an understanding of my rights as set forth above. It is made with no threats or promises having been extended to me.

Today at approx 1445 CAPT Fawcett (USN) arrived as directed by the Chief of Staff, Col McCarthy, at Bldg 8. The COS directed CAPT F. to walk

Through bldg 8 with me and LtCol Gardner to look at the space utilization of both H+S BN as well as G8. The intent of the walk was to provide a recommendation to the COS on the pros and cons of the current space utilization in bldg 8. G8 currently occupies the 1st deck and 1/2 of 1 wing on the 2nd deck, whereas H+S BN occupies the 2nd deck less the space occupied by G8. LtCol Gardner has been vocal about his opposition to the current space allocation for the last year + a half that I have been employed in G8. Likewise I have registered my desire to maintain the current space allocation within Bldg 8. The current configuration has existed for at least the last 6 or 7 years with no issues.

As soon as CAPT F arrived he and I walked up to LtCol Gardner's office and had a brief discussion about the intent of the walk through. LtCol Gardner made several suggestions about the availability of Bldg 11 and also the bldg's currently occupied by 9th Marines. CAPT Faurer mentioned that he had just left a meeting with the MEF G4 and had indicated that the MEF + MCG were interested in 9th Marine spaces as well. Then LtCol Gardner pulled the slide in his office and sarcastically pointed across the parking and commented it's just 200 yards away and shouldn't be too difficult to accommodate. I did not make any comment about his sarcasm, then CAPT Faurer suggested we walk through the space. We left LtCol Gardner's office after approximately 5-10 minutes and walked to the shared wing. LtCol Gardner explained his manning + staffing requirements along with inbound people and explained that he was tight on space. I did not say anything during the portion that LtCol Gardner was explaining his situation. After roughly 5 minutes we walked to the G8 side of the shared wing. I explained my space requirements and the functions of the section that conducts work in the G8 wing. Mr. ED Patchford heard us and came out of his office to offer any assistance. CAPT Faurer and Mr. Patchford walked the length of the wing and looked at the enclosed offices + the desk configuration - CAPT Faurer asked a question about one of the desks and Mr. Patchford indicated that the particular desk in question did not have a hot computer drop so that nobody was currently occupying that desk until G6 could complete the work. Directly CAPT Faurer, LtCol Gardner + myself shifted our position from the head of the center table to what I'm describing as the "Foyer" of the G8 space. At that point LtCol Gardner began saying that we should walk through the 1st Deck to look at space utilization and vacant work spaces. Then LtCol Gardner indicated that G8 should be able to move the people in the G8 wing into vacant work spaces. Up until that time I had not made any comments or suggestions about how H+S BN should utilize their own space, but after LtCol Gardner's sarcasm and making suggestion on my organization that opened the door for me to make suggestions about his organization, I suggested that LtCol Gardner could better utilize the space on his wing of the building since

in his entire wing he only has six people and that he has a tremendous amount of space but he has chosen not to utilize it efficiently. LtCol Gardner was visibly upset at my suggestion, and I began to raise his voice and say that he is a commander and that commanders have more rights and privileges. Then went into a tantrum about how the next commander was going to be an O-6. The next few moments got somewhat blurry but the conversation escalated to a loud tone. LtCol Gardner suggested that he was entitled to more than me. I suggested that I didn't agree but only the CG was going to tell me to move. LtCol Gardner agreed that this decision was the CG's. Then I called LtCol Gardner a ~~whiny~~ bitch and a pussy. Then LtCol Gardner made a ~~flippant~~ comment that the previous COS Mr. Meier had already made the decision and that G8 was supposed to move to bldg 11. But since the experimental people from Penn University were in there now that screwed up the plan. I suggested that the COS had made no such decision and told LtCol Gardner to prove it or show me. LtCol Gardner strongly and loudly protested that I was questioning his integrity. I looked in to LtCol and I called a whiny bitch and a pussy. LtCol Gardner told me to "get out of his personal space, or else" then we exchanged more expletives and I said "or else what?" then LtCol aggressively put his hands on my chest and shoved me back. At that time I told LtCol Gardner if he ever put his hands on me again that I would send him to the hospital. He then proceeded to place his hands on my chest in a violent and aggressive manner and shoved me into the wall while advancing on me. I felt threatened so I defended myself by punching him in the face. He began to thrash and advance on me so I put him in a headlock and proceeded to punch him about the head & neck & shoulders to reduce his threatening behavior. After I threw between 3-4 blows two marines (CWO2 Zagala & 1 enlisted Marine I didn't know) pull the two of us apart. LtCol Gardner looked at me and pointed his finger in my chest and said "you're fucking done" then stormed out toward his office. I immediately instructed all the witness not to talk about the altercation with each other. I informed them that they were witness and should be prepared to make statements to the investigation officers. Then I proceeded down stairs to my office and immediately phoned the chief of staff, Col McCarthy to inform him of what had occurred. Col McCarthy was not answering so I spoke to Mr. Armour and told him what occurred and asked him to walk down & tell Col McCarthy. Roughly 5 minutes after I hung up the phone with Mr. Armour, PHO arrived at my office and began taking statements. The following questions were asked by Military Police:

- 1.) Did LtCol Gardner get aggressive with you first i.e. hands on? YES he put his hands on my chest and shoved me first.
- 2.) Did you feel threatened for your safety? Yes I did.

- 3.) Do you have any previous altercations that have occurred in the work place? No, with 22 years of USMC service on active duty and nearly 2 years in civil service I have never had any physical altercation with any employee, coworker, subordinate, or supervisor.
- 4.) Do you have any injuries you would like reported from this incident? NO
- 5.) Do you wish to add anything else to your statement? NO

NOT USED

This statement which begins on page 1 and ends on page 4. I have read and understood this statement. This statement is the truth to the best of my knowledge and belief.

(b) (6)

Signature of person making statement

Subscribed and sworn to before me this 17th day of September, 2014.
at 1800.

(b) (7) (C)

Signature of person administering oath
Authority Article 136(b).4 UCMJ

DEPARTMENT OF THE NAVY
VOLUNTARY STATEMENT

1. PLACE *MZ*

Bldg 8

2. TIME / DATE *MZ*

1535 / 17 Sep 14

1. Zabola, JR, Michael, E

(b) (6)

(b) (7) (C)

, make the following

free and voluntary statement to *Military Police*
whom I know to be a *Military Police*

I make this statement of my own free will and without any threats or promises extended to me. I fully understand that this statement is given concerning my knowledge of _____

MZ I was working on my computer and on the phone when I heard what sounded like someone had kicked the boxes by the door. When I looked up I saw LtCol Gardner and Mr Scott Griffin sitting by the door. At that time I went over to separate the two *MZ*

MZ Q: Did you see who began the fight?

MZ A: No I did not see who started the fight.

MZ Q: Do you know why this happen?

MZ A: No I did not know what started the fight.

MZ Q: Who was involved in the area?

MZ A: LtCol Gardner & Mr Scott Griffin were involved in the fight. Capt Fongse (USA) was standing next to them

MZ Q: Where did it happen?

MZ A: By the doors & window, across the room from my desk.

MZ Q: What did you hear?

MZ A: Someone said "don't you put your hands on me."

MZ Q: Where did the Staff Sgt come from?

MZ A: S-A (office adjacent to the RE&A office) RE&A Resource Evaluation & Analysis

MZ Q: In detail what did you see?

MZ A: As I walked up LtCol Gardner was against the wall of the window and boxes.

at that time SSgt Wierzynski came in from the SA office at that time *MZ*

with Mr Griffin on top. At that time SSgt Wierzynski came in the office

from the S-A office to assist in separating LtCol Gardner & Mr Griffin. *MZ*

NO Further Entries

Statement of _____ continued from page ____.

11/12

No Entries

This statement which begins on page 1 *ms* and ends on page 2 *ms*. I have read and understood this statement. This statement is the truth to the best of my knowledge and belief.

(b) (6)

Signature of person making statement

Subscribed and sworn to before me this 17 day of Sep 2014 *ms*
at 1602.

(b) (7) (C)

Signature of person administering oath
Authority Article 136(b).4 UCMJ

Page BUILDING 3

VOLUNTARY STATEMENT

2. TIME / DATE

1207 / 20140918

X. TIBL

I, WIECZYNSKI, TIMOTHY, BRIAN / (b) (6) / E-6 & TBci _____, make the following free and voluntary statement to OFC (b) (7) (C) & TBci _____, whom I know to be Military Policeman _____, I make this

statement of my own free will and without any threats or promises extended to me. I fully understand that this statement is given concerning my knowledge of THE ASSAULT THAT TOOK PLACE AT BUILDING 8 ON 17 SEPT 2014.

I was sitting at my desk when the office door across from me opened. The guy that opened the door had a desperate look on his face and you could see some legs in a non-upright position. Also you could hear the rattling around and clunking. I jumped up and ran to the office. As I came through the door there was a crowd of people to my left and to my right I ~~thought~~ ^{heard} was ~~supposed to be~~ what I was seeing. Saw my CO Lt Col Gardner was pressed onto the corner of the room in a head lock with this guy in a red striped shirt repeatedly punching Lt Col Gardner in the face with his right hand and yelling at him. So I grabbed his right arm and put him in a chicken wing to stop him from punching the CO. He kept trying to punch the CO yelling I told you next time I will fucking kill you. He repeated this over and over. I kept saying chill out chill out ~~this~~ this is not helping anything since the man that was punching the CO would not stop. I had to get more aggressive and pull him off and to the side escort him to the side the CO collected himself up and walked out saying your Done your Done. I stood in front of the man with the striped shirt as the CO left I was in shock the striped shirt man stood and looked at me. Finally he walked out with another guy. I walked back to my office and then the third hit me that made the man the striped shirt ~~when~~ went to the CO's office. So I ran to the CO's office and I came to the secretary and she said he is in his office. I asked if the guy had followed. She said no ~~that~~ at told him to shut it and lock it ^{his door} at that point she was calling PMC. That's when she told me the man was the computer.

DEC HATHIN J. ASK THE FOLLOWING FOLLOWING QUESTIONS

②) HAS GARDNER AND THE CONTROLLER HAD ANY ISSUES IN THE PAST?

A) Yes I was on the command deck giving some paper to the secretary Mrs. Tummy when the computer was aggressively yelling at me so as to this happened a ~~cent~~ couple of months ago. I can not remember much but it was pretty heated ~~ago~~ I was checked ~~out~~ and ~~put~~ thought to myself its ~~its~~ above my pay grade. ~~the~~ and I have not thought of it since yesterday.

① ANYTHING ELSE YOU WOULD LIKE TO ADD TO YOUR STATEMENT?

(b) (7) (C) HAS NO FURTHER QUESTIONS

Statement of WIECZYNSKI continued from page 1.

41BU

Not Used

4 734

This statement which begins on page 1 and ends on page 2. I have read and understood this statement. This statement is the truth to the best of my knowledge and belief.

(b) (6)

Signature of person making statement _____

Subscribed and sworn to before me this 18 day of SEPT, 2014.
at 1300.

(b) (7) (C)

Signature of person administering oath
Authority Article 136(b).4 UCMJ

DEPARTMENT OF THE NAVY
VOLUNTARY STATEMENT

1. PLACE

Bldg 12

2. TIME / DATE

1632 / 17 Sep 14

4B1

4B1

1. Fournice, Jason, Bancroft

(b) (6)

make the following

free and voluntary statement to military police

(b) (7) (C)

whom I know to be a military police

I make this statement of my own free will and without any threats or promises extended to me. I fully understand that

this statement is given concerning my knowledge of AN ASSAULT 4B1

AB1 MICHAEL - MCB CAMLETS Chief of Staff Col Ty McCarthy asked me to give him "pros and cons" concerning use of space in Building 08 by either Comptroller Department (G-8) Headquarters & Support Battalion (H&S BN). I therefore called a meeting for 1445 on Wednesday, 17 September 2014, to be attended by AC/S G-8 Mr. Scott Griffith and CO H&S BN LtCol Harry Gardner. I walked with both Mr. Griffith and LtCol Gardner to the spaces in question, located on the 2nd deck of Building 8 and currently occupied by the G-8 REA section. I walked through the REA spaces with REA section head Mr. Ed Patchford while Mr. Griffith and LtCol Gardner remained by the door leading out of the spaces. The door was closed, and I did not observe Mr. Griffith and LtCol Gardner talking with each other while I was walking through the spaces. When I returned to where Mr. Griffith and LtCol Gardner were standing, I reviewed the situation concerning the spaces, that I had been aware for the past year that H&S BN needed more space for its S-3 and S-6 personnel, that LtCol Gardner had raised the issue with former Chief of Staff Mr. Bill Meier, that Mr. Meier had told me that he had intended to make Bldg 11 available to resolve the requirement, but that Bldg 11 was not going to be available for the next year because it is now being used by the Ground Combat Element Integrated Task Force. LtCol Gardner stated that Mr. Meier had decided that H&S BN should move into the REA spaces and that REA would move to Bldg 11. Mr. Griffith stated that he had never heard that from Mr. Meier and asked whether such a decision had been put in writing. LtCol Gardner stated that the decision had been a verbal order from the former chief of staff, who is now the AC/S G-7. Mr. Griffith expressed doubt that Mr. Meier had made such a statement. LtCol Gardner took offense and asked whether Mr. Griffith was questioning his integrity. By this time the conversation was becoming very heated - one of the two suggested things that they should call Mr. Meier to verify what Mr. Meier had said. At this point I urged the two to calm down and stated that Mr. Meier was no longer the chief of staff and that the situation had changed since then with the stand up of the GCE ITC. Then LtCol Gardner suggested that we walk downstairs to the G-8 spaces on the first deck to see how those spaces were being used. Mr. Griffith responded by saying that if we wanted to spaces that were being under-utilized we should go to the H&S BN Command Deck in which there were only 6 people occupying the entire wing of the building. LtCol Gardner then said that he was an O-6 Commander, selected for O-6, and that Commanders need space to carry out their duties. At that point I recall LtCol Gardner saying something inappropriate, using profanity, but I do not remember the words. Mr. Griffith responded by stepping back within perhaps six inches of LtCol Gardner, pointing at him, and calling him a "fucking pussy". LtCol Gardner replied by telling Mr. Griffith that he was in his personal space and ordering him to back down. Mr. Griffith did not back down but rather continued shouting at LtCol Gardner. Then LtCol Gardner placed his right hand on Mr. Griffith's chest, pushed him back 3 or 4 inches and said "If you won't get out of my personal space, how would you like it if I got into yours?" At that point I turned away from the two in order to open the door. When I turned around, the two were grappling with each other. Mr. Griffith seemed to be on top. I heard a third, which sounded like someone's head bumping a cabinet or the wall, and I saw Mr.

4B1

Griffith swinging at LtCol Griffith, although since they were both in each other's grasp, it did not amount to much. At that point, a Marine from the R&A spaces and another Marine from the HQ&S BN spaces entered and physically separated the two. One of the two, I do not remember which, stated "I'm pressing charges, and the other looked at the Marines and said, 'you all can make statements.'" LtCol Gardner walked out of the spaces towards his office. They walked out of the spaces out of the building, and to MCIEAST MCB CAMLEY. Deputy Commander Col Clark's office in Building 1, where I learned that he had already received a initial report on the event. AB

No Further Entries

Statement of Fauce continued from page 2.

No Entries

This statement which begins on page 1 and ends on page 3. I have read and understood this statement. This statement is the truth to the best of my knowledge and belief.

(b) (6)

Signature of person making statement

Subscribed and sworn to before me this 17 day of Sep 2014.
at 1728.

(b) (7) (C)

Signature of person administering oath
Authority Article 136(b).4 UCMJ

DEPARTMENT OF THE NAVY
MILITARY SUSPECT'S ACKNOWLEDGMENT AND WAIVER OF RIGHTS

Place: 2706 Seth Williams CLWC
1637 17 Sep 14

I, LtCol Gardner Harry L 3664
have been advised by Ofc
that I am suspected of Assault

I have also been advised that:

- (1) I have the right to remain silent and make no statement at all; 118
- (2) Any statement I do make can be used against me in a trial by court-martial or other judicial or administrative proceeding; 118
- (3) I have the right to consult with a lawyer prior to any to any questioning. This lawyer may be a civilian lawyer retained by me at no cost to the United States, a military lawyer appointed to act as my counsel at no cost to me, or both; 118
- (4) I have the right to have my retained civilian lawyer and/or appointed military lawyer present during this interview; and 118
- (5) I may terminate this interview at any time, for any reason; 118

I understand my rights as related to me and as set forth above. With that understanding, I have decided that I do not desire to remain silent, consult with a retained or appointed lawyer, or have a lawyer present at this time. I make this decision freely and voluntarily. No threats or promises have been made to me.

Signature: [Signature]

Date & Time: 17 Sep 14 / 1639

Witnessed: [Signature]

Date & Time: 17 Sep 14 1641

At this time, I, LtCol Gardner, Harry L 3664

desire to make the following voluntary statement. This statement is made with an understanding of my rights as set forth above. It is made with no threats or promises having been extended to me.

We had a scheduled meeting at 1430 between CAPT Fawcett, USN and Mr. Griffith, Deputy G-8, MC18751 to discuss a space reallocation internal to BLDEB. Mr Griffith + CAPT FAWCETT initially met in my office, Room 21B, prior to going over the top floor of BLDEB to look at space. We walked together to the 53/54 office discussing the issues of space in

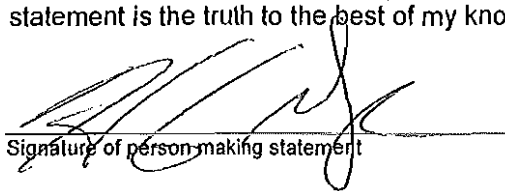
that office and that of the Chaplain's office and the issuing of as necessary 2 chaplains and 1 RP within the next 30 days. We then moved to the RET space on the 2D Deck of Bldg 8. We entered into the space, I was to the left, CAPT FAVINE on my right & MR Griffith to the front & between us. As we discussed the space allocation, I asked CAPT FAVINE as to required space allocations per person as I didn't have knowledge of these. Mr Griffith then stated that the Decision for more the space would come from the CG, MCITSI. I agreed the both of us and the work for the CG & we both would follow our orders from him. Mr Griffith then stated that the former COS, MR Mier (now G-7 MCITSI) had not made a decision for the more. I informed Mr Griffith that MR Mier in fact had made such an order. The RET space was to be moved to Bldg 11. An argument ensued where Mr Griffith stated the CG was "full of shit" that MR Mier had made no such statement, I told him that yes he had and that he was questioning the integrity of me and of MR Mier. Mr Griffith then went on to say that it was a "Pussy" that he had heard of had whined to the current COS about the RET space and that it was a baby and repeated the "Pussy" comment. I then told him "You think and one saying it's a Pussy" and he said yes it's a pussy and it that moment he moved up to fire me with combat 1" inch of space between us. I told Mr Griffith to back away from my assigned space that he needed to back away so that nothing would happen. He provoked me by saying "What are you going to do?" taunting me with the power command being, I informed him that I would get into his personal space. At this moment, I did to our close proximity both of us touched each other due to no space being available between us, I then in response to our touching reached my hand in his chest and pushed us both away from each other. He then went and pushed me back under the entry way of the RET space telling me to get the "FUCK out of his space". I reacted by a reflex myself from falling into the door jamb and had my hand pressed against Mr Griffith. At the moment he pushed me again, I hit my balance & he was able to hit me with a head lock. He began squeezing his fist it me into my face numerous times, I reached back with my right hand to put him in his genital area and at this time I felt and heard him threaten me as he hit me saying he would beat me if I come back in his space. He only did one then pulled apart by the CWO in the RET space and SSgt. Wicks. If the 3 of us were in the RET space and told Mr Griffith we are done, and went to my office, I immediately called the Deputy CG MCITSI to inform him of what just transpired. I called CMS AND FRO to begin the enquiry into all that transpired as I felt threatened and was attacked by Mr Griffith. END STATEMENT

~~NOTHING~~

~~FURTHER~~

Statement of GARDNER continued from page 2.

This statement which begins on page 1 and ends on page 2. I have read and understood this statement. This statement is the truth to the best of my knowledge and belief.


Signature of person making statement

Subscribed and sworn to before me this 17 day of SEP, 2014.
at 1718
(b) (7) (C)

Signature of person administering oath
Authority Article 136(b).4 UCMJ



**PROVOST MARSHAL OFFICE
CAMP LEJEUNE, NC**

TITLE
ASSAULT

CCN
06398

**POLICE
OFFICERS NAME**
(b) (7) (C)

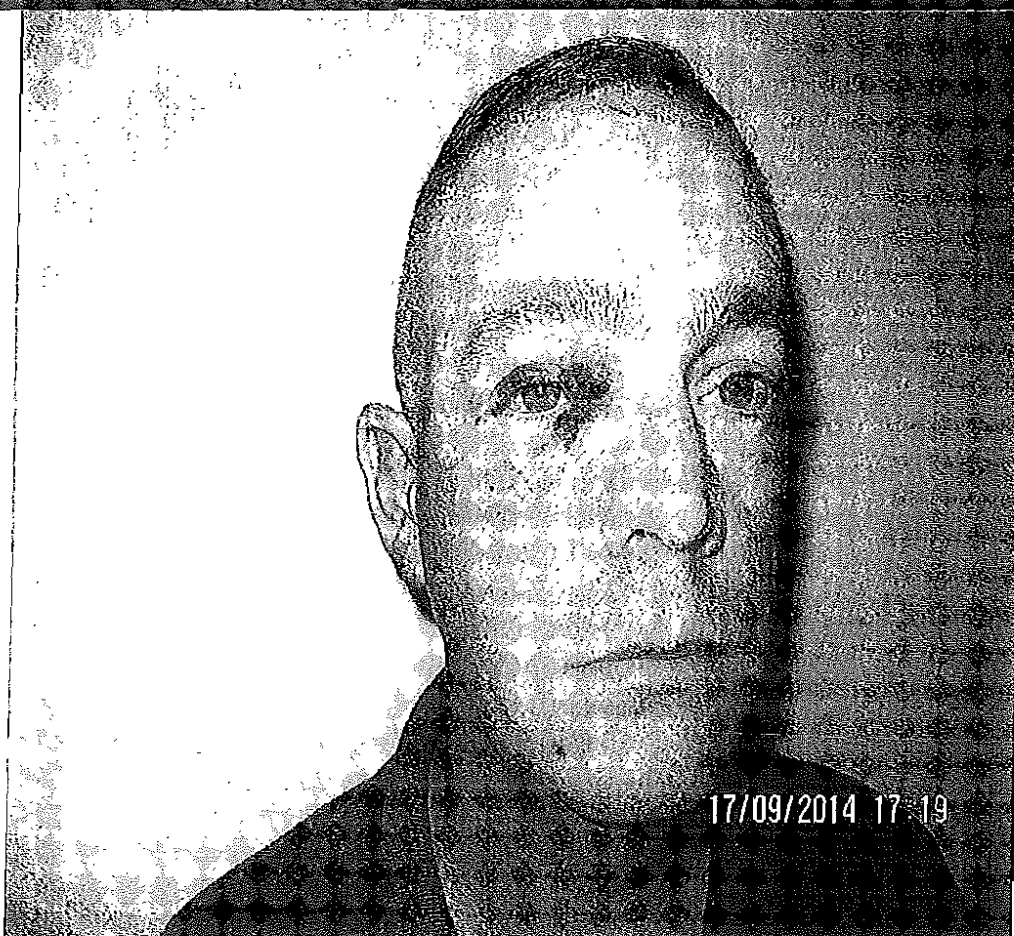
DESCRIPTION

ASSAULT AT BUILDING 8 (GARDNER)

DATE

17 SEPT 2014

17/09/2014 17:19



PROVOST MARSHAL OFFICE
CAMP LEJEUNE, NC

TITLE ASSAULT	CCN 06398	POLICE OFFICERS NAME (b) (7) (C)
DESCRIPTION		DATE 17 SEPT 2014

17/09/2014 17:19



PROVOST MARSHAL OFFICE
CAMP LEJEUNE, NC

TITLE

ASSAULT

CCN

06398

POLICE OFFICERS NAME

(b) (7) (C)

DESCRIPTION

ASSAULT AT BUILDING 8 (GRIFFITH)

DATE

17 SEPT 2014

(b) (6)

PROVOST MARSHAL OFFICE
CAMP LEJEUNE, NC

TITLE

ASSAULT

CCN

06398

POLICE OFFICERS NAME

(b) (7) (C)

DESCRIPTION

ASSAULT AT BUILDING 8 (GRIFFITH)

DATE

17 SEPT 2014

PROVOST MARSHAL OFFICE
CAMP LEJEUNE, NC

TITLE
ASSAULT

CCN
06398

POLICE OFFICERS NAME
(b) (7) (c)

DESCRIPTION

ASSAULT AT BUILDING 8 (GRIFFITH)

DATE

17 SEPT 2014

G STATION

U.S.M.

MCIEAST MCB CAMLEJ

AC/S G8

COMPTROLLER

REA DIV

MR ED ROTCHFORD "10"

REA OFFICER

ACCOUNTING AND AUDIT SUPPORT
BRANCHES

HOURS 0700-1630

09/17/2014 16:25

PROVOST MARSHAL OFFICE
CAMP LEJEUNE, NC

TITLE

CCN

POLICE OFFICERS NAME

ASSAULT

06398

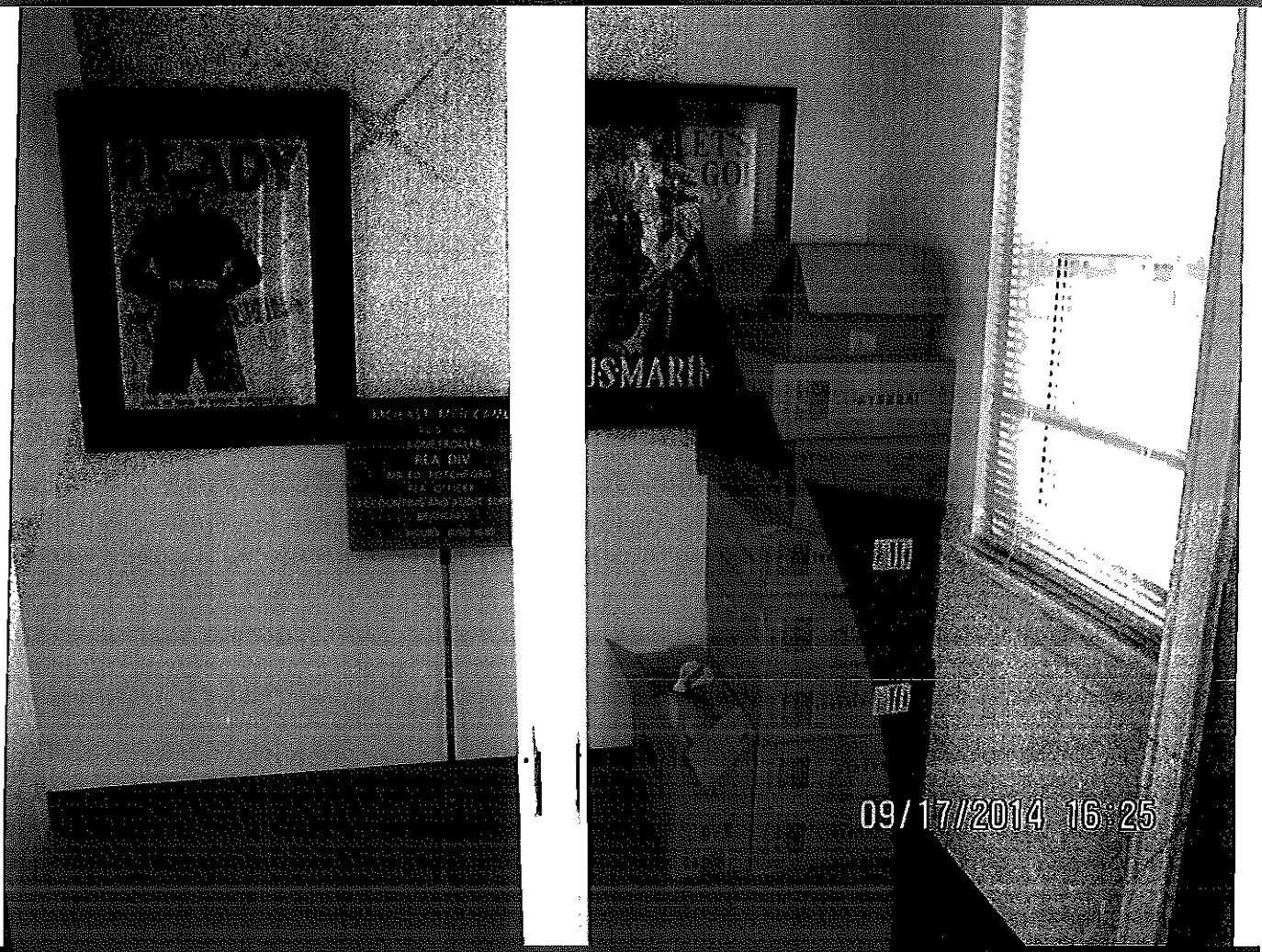
(b) (7) (C)

DESCRIPTION

DATE

ASSAULT AT BUILDING 8

17 SEPT 2014



**PROVOST MARSHAL OFFICE
CAMP LEJEUNE, NC**

TITLE ASSAULT	CCN 06398	POLICE OFFICERS NAME (b) (7) (C)
DESCRIPTION ASSAULT AT BUILDING 8		DATE 17 SEPT 2014



09/17/2014 16:24

PROVOST MARSHAL OFFICE
CAMP LEJEUNE, NC

TITLE

ASSAULT

CCN

06398

POLICE OFFICERS NAME

(b) (7) (C)

DESCRIPTION

ASSAULT AT BUILDING 8

DATE

17 SEPT 2014

09/17/2014 16:24

**PROVOST MARSHAL OFFICE
CAMP LEJEUNE, NC**

TITLE
ASSAULT

CCN
06398

POLICE OFFICERS NAME
(b) (7) (C)

DESCRIPTION

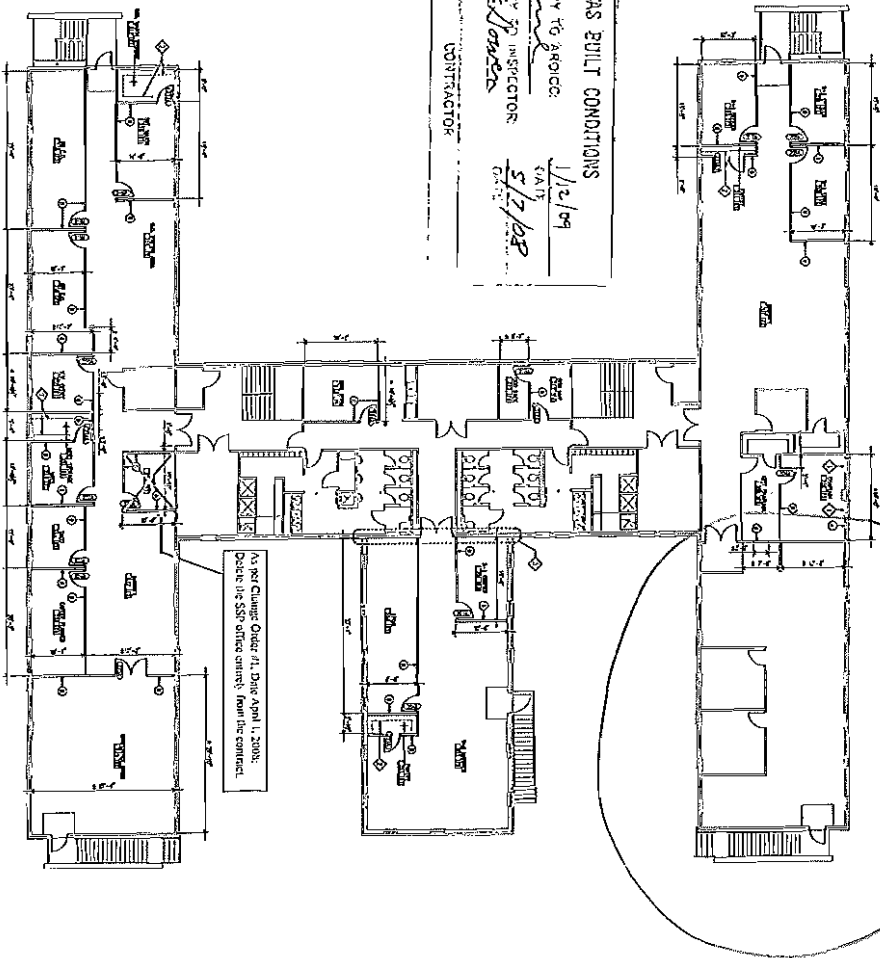
ASSAULT AT BUILDING 8

DATE

17 SEPT 2014

REA
SECTION

AS BUILT CONDITIONS
 1/12/09
 5/17/08
 CONTRACTOR



As per Change Order #1, Date April 1, 2008.
 Delete the SSP office chairs from the contract.

SECOND FLOOR PLAN
 Scale: 1/8" = 1'-0"



GENERAL NOTES

1. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS, LICENSES, AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS, LICENSES, AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS, LICENSES, AND APPROVALS FROM THE APPROPRIATE AGENCIES.

GENERAL CONSTRUCTION NOTES

1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BUILDING CODES AND STANDARDS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS, LICENSES, AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS, LICENSES, AND APPROVALS FROM THE APPROPRIATE AGENCIES.

KEYED CONSTRUCTION NOTES

1. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS, LICENSES, AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS, LICENSES, AND APPROVALS FROM THE APPROPRIATE AGENCIES.

06-D-4000-22
 As Built Drawings
 R&W Construction Co., Inc.
 5-5-08

LEGEND

1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BUILDING CODES AND STANDARDS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS, LICENSES, AND APPROVALS FROM THE APPROPRIATE AGENCIES.

FINISH SCHEDULE

NO.	DESCRIPTION	UNIT	QUANTITY
1	PAINT	SQ. YD.	1000
2	CEILING	SQ. YD.	500
3	FLOOR	SQ. YD.	200
4	WALL	SQ. YD.	100
5	DOOR	EA.	50
6	WINDOW	EA.	100
7	STAIR	SQ. YD.	50
8	ROOF	SQ. YD.	100
9	MECHANICAL	SQ. YD.	50
10	ELECTRICAL	SQ. YD.	50
11	PLUMBING	SQ. YD.	50
12	HEATING	SQ. YD.	50
13	Cooling	SQ. YD.	50
14	INSULATION	SQ. YD.	50
15	FOUNDATION	SQ. YD.	50
16	CONCRETE	SQ. YD.	50
17	BRICK	SQ. YD.	50
18	STONE	SQ. YD.	50
19	GLASS	SQ. YD.	50
20	METAL	SQ. YD.	50
21	WOOD	SQ. YD.	50
22	PLASTER	SQ. YD.	50
23	CEMENT	SQ. YD.	50
24	SAND	SQ. YD.	50
25	GRAVEL	SQ. YD.	50
26	ASPHALT	SQ. YD.	50
27	PAVEMENT	SQ. YD.	50
28	LANDSCAPE	SQ. YD.	50
29	IRRIGATION	SQ. YD.	50
30	SEWER	SQ. YD.	50
31	WATER	SQ. YD.	50
32	SEWER	SQ. YD.	50
33	WATER	SQ. YD.	50
34	SEWER	SQ. YD.	50
35	WATER	SQ. YD.	50
36	SEWER	SQ. YD.	50
37	WATER	SQ. YD.	50
38	SEWER	SQ. YD.	50
39	WATER	SQ. YD.	50
40	SEWER	SQ. YD.	50
41	WATER	SQ. YD.	50
42	SEWER	SQ. YD.	50
43	WATER	SQ. YD.	50
44	SEWER	SQ. YD.	50
45	WATER	SQ. YD.	50
46	SEWER	SQ. YD.	50
47	WATER	SQ. YD.	50
48	SEWER	SQ. YD.	50
49	WATER	SQ. YD.	50
50	SEWER	SQ. YD.	50

COLOR AND MATERIAL SELECTIONS

NO.	DESCRIPTION	UNIT	QUANTITY
1	PAINT	SQ. YD.	1000
2	CEILING	SQ. YD.	500
3	FLOOR	SQ. YD.	200
4	WALL	SQ. YD.	100
5	DOOR	EA.	50
6	WINDOW	EA.	100
7	STAIR	SQ. YD.	50
8	ROOF	SQ. YD.	100
9	MECHANICAL	SQ. YD.	50
10	ELECTRICAL	SQ. YD.	50
11	PLUMBING	SQ. YD.	50
12	HEATING	SQ. YD.	50
13	Cooling	SQ. YD.	50
14	INSULATION	SQ. YD.	50
15	FOUNDATION	SQ. YD.	50
16	CONCRETE	SQ. YD.	50
17	BRICK	SQ. YD.	50
18	STONE	SQ. YD.	50
19	GLASS	SQ. YD.	50
20	METAL	SQ. YD.	50
21	WOOD	SQ. YD.	50
22	PLASTER	SQ. YD.	50
23	CEMENT	SQ. YD.	50
24	SAND	SQ. YD.	50
25	GRAVEL	SQ. YD.	50
26	ASPHALT	SQ. YD.	50
27	PAVEMENT	SQ. YD.	50
28	LANDSCAPE	SQ. YD.	50
29	IRRIGATION	SQ. YD.	50
30	SEWER	SQ. YD.	50
31	WATER	SQ. YD.	50
32	SEWER	SQ. YD.	50
33	WATER	SQ. YD.	50
34	SEWER	SQ. YD.	50
35	WATER	SQ. YD.	50
36	SEWER	SQ. YD.	50
37	WATER	SQ. YD.	50
38	SEWER	SQ. YD.	50
39	WATER	SQ. YD.	50
40	SEWER	SQ. YD.	50
41	WATER	SQ. YD.	50
42	SEWER	SQ. YD.	50
43	WATER	SQ. YD.	50
44	SEWER	SQ. YD.	50
45	WATER	SQ. YD.	50
46	SEWER	SQ. YD.	50
47	WATER	SQ. YD.	50
48	SEWER	SQ. YD.	50
49	WATER	SQ. YD.	50
50	SEWER	SQ. YD.	50

A-102

06-D-4000-22
 As Built Drawings
 R&W Construction Co., Inc.
 5-5-08

Building
 MARINE CORPS BASE
 BUILDING 8

INTERIOR REPAIRS

ENCLOSURE (7)

(b) (6)

From: Meier CIV William A
Sent: Monday, September 29, 2014 2:37 PM
To: (b) (6)
Subject: Question
Signed By: william.meier@usmc.mil

(b) (6) per our phone call today, you requested I answer the below question in support of your ongoing investigation:

Question. As Chief of Staff I did promise LtCol Gardner that I would relocate the G-8, REA section from their location on the second deck of Bld 8, to make room for his Bn S-4 section?

Answer. I did tell LtCol Gardner that I would move the REA section out of the second deck of Bld 8 which would enable him to separate his S-3/4 section, as they share a wing together. This discuss has been going on since the beginning of the new year, if not longer. The only facility available was Bld 11, which is about 100 yards from Bld 8. This Bld was acceptable as office spaces, however it was too far from the comptroller sections which the REA does daily business with. I was close to directing the G-8 to relocate its REA section to Bld 11, when Capt Faunce came to me and stated he had a requirement to find a facility for the University of Pittsburg to provide a Heath Assessment for the Ground Combat Element Integration Tasks Force (GCEITF), which would last for a year (June 14-June 15). Due to the higher level requirement, Bld 11 was assign to the Div to support the GCEITF. Both parties were aware of said tasker and everything was placed on hold until Bld 11 comes open next summer. I didn't call a meeting, I just assumed everyone relized the relocation of the REA section was on hold for a year or until any other suitable facility came available.

Any questions pls call.
WAM

H&S BN MCIEAST-MCB START OF FALL BLITZ GOLF TOURNAMENT



Show Time 0730

Shotgun Start 0800

Lunch & Awards to Follow

Rain Date: 24 Sep

**Paradise Point Golf Course
(Scarlet Course)**

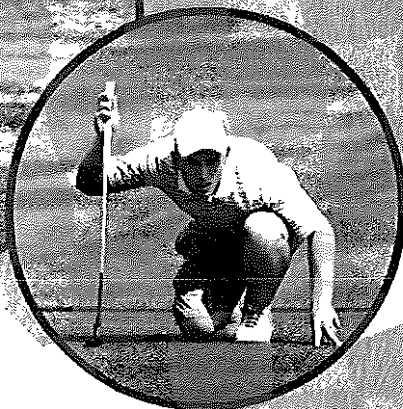
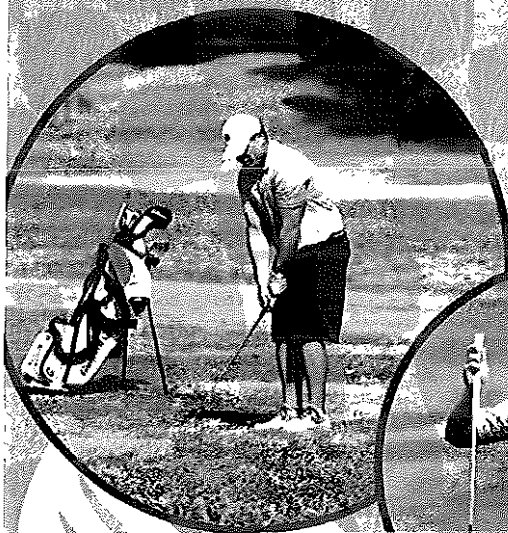
\$41.00 Greens Fee, Cart, Meal,
3 Drink Tickets & Prizes

\$46.00 + Clubs

Checks only made out to MCCS.

DEADLINE: Submit your 4 man team
by 1200 3 Sep

CONTESTS: Scramble Format,
Longest Drive & Closest to the Pin



MCCS
CAMP LEARN
WE'RE PROUD TO SERVE YOU

**OPEN to all H&S Bn
Active Duty Marines, Civilians,
and Family Members.**

For more information, contact Heidi Anastasia
at 910-451-3399 or heidi.anastasia@usmc.mil
Bldg. 8 Rm 222.

Player's Names	Phone Number	RT or LT Clubs Needed

ENCL (9)

(b) (6)

(b) (6)

From:
Sent: Tuesday, September 23, 2014 4:20 PM
To: (b) (6)
Subject: Combat Camera Photograph
Attachments: 1V4W3499.jpg

Good Afternoon,

Here is the photograph that you have requested from Base Combat Camera. The photograph is of the H&S Battalion CO's Golf team, at the tournament last Wednesday. The photographer's name is (b) (6)
(b) (6)

Respectfully,

(b) (6)

This photograph depicts LtCol
Gardner's golf team at the
HVS Bn tournament on 17 Sep
2014. From left to right: Sgt Maj
Sundermier, 1st Lt Carlson, Maj Miller,
LtCol Gardner.

LtCol
Gardner



(b) (6)

68 62

(b) (6)

68 64

(b) (6)

73 78

(b) (6)

70 73

(b) (6)

63 62

(b) (6)

61 67

(b) (6)

78 62

(b) (6)

58 77

(b) (6)

Team 11
CARLSON, 1STLT
GARDNER, LTCOL
MILLER, MAJ
SUNDENMIER, SGTMAJ

1st place

78 72

(b) (6)

78 67

(b) (6)

(b) (6)

Closest To Pin # 11

Longest Drive # 8

(b) (6)

(b) (6)

(b) (6)

From: Sundermier SgtMaj Toshia C (b) (6)
Sent: Monday, September 29, 2014 4:48 PM
To: (b) (6)
Subject: RE: COMMAND INVESTIGATION
Signed By: (b) (6)

Sir,

I have copied and pasted your questions below. My answers are written beneath the questions.

- When the golf tournament began and ended
The golf tournament began at 0800 to around 1300ish.

- Was the CO at the award ceremony, why not (to the best of your recollection)

The BN Commander was not at the award ceremony due to a family emergency and then he went to the BN To see Capt Faunce.

- Did anyone drink alcohol?
No one on my team drank any alcohol. (My team consisted of: Lt Col Gardner, Maj Miller, Lt Carlson, SgtMaj Sundermier)
There were some individuals who drank alcohol however, I personally did not see anyone drinking.

- How many drink tickets did everyone get?
Each player received three drink tickets.

- Was the CO in a good mood during and after the tournament?
The BN Commander was in a great mood (he was golfing)

Please let me know if you need anything else sir

SgtMaj Toshia C Sundermier
Sergeant Major
Headquarters and Support Battalion
Marine Corps Base, Camp Lejeune
(910)-451-5403
DSN 751-5403

-----Original Message-----

From: (b) (6)
Sent: Monday, September 29, 2014 12:10 PM
To: Sundermier SgtMaj Toshia C

Subject: COMMAND INVESTIGATION

SgtMaj,

I know you are very busy, but if I could impose upon you to write me an email concerning the following subjects we covered in our interview, I can probably wrap the investigation up today.

- When the golf tournament began and ended
- Was the CO at the award ceremony, why not (to the best of your recollection)
- Did anyone drink alcohol?
- How many drink tickets did everyone get?
- Was the CO in a good mood during and after the tournament?

S/F

(b) (6)

STATEMENT:

1. When the golf tournament began and ended.

The golf tournament began at 0730 and ended after awards/lunch at approximately 1330 on Wednesday 17 September 2014.

2. Was the CO at the award ceremony, why not? (to the best of your recollection)

The CO was not at the award ceremony. He told SgtMaj and Major Miller to take charge of the lunch/awards presentation. It was my understanding that he received a call from his wife and needed to take care of personal matters back at his quarters. He was in the office and in uniform when I returned to work around 1345-1400.

3. Did anyone drink alcohol?

Yes, there were golfers from other teams that did consume alcohol during the tournament. No one from the team I was on (consisting of: LtCol Gardner, SgtMaj Sundermier, Major Miller, and myself) consumed any alcohol.

4. How many drink tickets did everyone get?

Each golfer received 3 drink tickets.

5. Where you in the CO's office when Captain Faunce and Mr. Griffith walked up?

I had just left the CO's office when I passed two gentlemen at the red carpet area walking towards the CO's office. I left knowing the CO had an appointment/meeting to discuss battalion spacing, so I am confident to say it was Captain Faunce and Mr. Griffith that I walked past.

6. What were you doing in the CO's office?

I was in his office thanking him for the golf tournament, seeing if the command needed anything from the S-1, and collecting money (two checks) one for the Battalion Cookbook sales and one for tickets to the MCIEAST Camp Lejeune Marine Corps Birthday Ball. I am the treasurer for the cookbook committee and Battalion Representative/Ticket Collector for the MCIEAST Ball.

7. Was the CO in a good mood during and after the tournament?

Yes, the CO was in a good mood during and after the tournament. Our entire team had a great time playing golf on a gorgeous day and afterwards nothing seemed out of the ordinary. The CO was very approachable and possessed a calm and professional demeanor just as he always has every day over the past year that I have been at Headquarters and Support Battalion.

1stLt Rebecca Carlson
Battalion Adjutant
29 September 2014

Q12

(b) (6)

From: Miller Maj Shawn D (b) (6)
Sent: Monday, September 29, 2014 4:17 PM
To: (b) (6)
Subject: RE: COMMAND INVESTIGATION
Signed By: (b) (6)

Sir,

I copied your questions from the below e-mail and included them with my reply. My responses immediately follow each question.

- When the golf tournament began and ended

ANS: The Headquarters and Support Battalion Golf Tournament began at 0800, Wednesday, 17 September 2014. The tournament concluded around 1230, 17 September 2014. The awards ceremony and luncheon started at approximately 1245 and ended at approximate 1340. I was the last person to depart the area at approximately 1400.

- Was the CO at the award ceremony, why not (to the best of your recollection)

ANS: LtCol Gardner was not at the award ceremony. At approximately 1235, he departed the area. He asked me to present the awards and send everyone his regrets for not being there. He received a call from his wife. She had an appointment and her car would not start. He was going to take her his car so she could make the appointment.

- Did anyone drink alcohol?

ANS: No one in our group consumed alcohol even though it was available via the "snack cart". My group consisted of LtCol Gardner, Lt Carlson, SgtMaj Sundermier, and me. LtCol Gardner and I shared a golf cart.

- How many drink tickets did everyone get?

ANS: Each person received three drink tickets.

- Was the CO in a good mood during and after the tournament?

ANS: LtCol Gardner was in a great mood during the tournament. It was a relative low stress day and we were all having fun enjoying the game and the weather.

Let me know if there is anything I can expand upon or need clarifying.

(b) (6)

R/S,
Major Shawn D. Miller

(b) (6)

-----Original Message-----

(b) (6)

From:

Sent: Monday, September 29, 2014 3:38 PM

To: Miller Maj Shawn D

Subject: FW: COMMAND INVESTIGATION

Maj Miller,

I know you are very busy, but if I could impose upon you to write me an email concerning the following subjects we covered in our interview, I can probably wrap the investigation up today.

- When the golf tournament began and ended
- Was the CO at the award ceremony, why not (to the best of your recollection)
- Did anyone drink alcohol?
- How many drink tickets did everyone get?
- Was the CO in a good mood during and after the tournament?

s/f

(b) (6)

From: Rotchford CIV Edward P (b) (6)
Sent: Monday, September 29, 2014 4:18 PM
To: (b) (6)
Subject: RE: COMMAND INVESTIGATION
Attachments: H&S BN walk through with GF (6.99 KB)
Signed By: (b) (6)

Sir,

I added the email notification I received concerning the visit.

Answered Items below "*** CAPS".

- How long has the REA office occupied its current location (in years)
***REA MOVED TO PRESENT LOCATION FALL OF 2007.

- How many civilians and Marines work in that section?
***5 CIVILIANS, 4 MARINES, 1 CONTRACTOR

- Is the below paragraph accurate? If so, please include it into your email statement. If not, please edit.

n. Mr. Griffith had notified the REA officer, Mr. Edward P. Rotchford, of the meeting prior to their arrival. Mr. Rotchford was aware of the contention over the use of the office space, and wanted to be as helpful as possible. Accordingly, Mr. Rotchford met Captain Faunce near the door as the three men entered the REA section. He then escorted Captain Faunce around the section, answering questions and providing Captain Faunce with information on the use of each desk and office. LtCol Gardner and Mr. Griffith stood near the section entrance while Mr. Rotchford and Captain Faunce walked through the section. Due to the small size of the office, Captain Faunce could see that neither was speaking as he toured the area. The REA section a short rectangle, with desks running along each long wall generally facing inward. There is walking path between the desks. If one were to stand at the head of the office and look to the back wall, he would see five "L" shaped desks on the left stretching to the back wall, and ***TWO DESKS ON THE RIGHT FOLLOWED BY TWO INDIVIDUAL OFFICES AND ONE "CONTRACTOR" DESK STRETCHING TO THE BACK WALL.

- Describe when you broke off from the group and returned to your office.
***CAPT FAUNCE STATED THERE SEEMED TO BE A "FULL SECTION HERE". LT COL GARDNER BROKE IN ABRUPTLY AND WITH SOME FIRMNESS, "YOU HAVE TO GO DOWNSTAIRS, THERE ARE PLENTY OF DESKS DOWN THERE. YOU HAVE TO LOOK AT EACH INDIVIDUAL SPACE." MR GRIFFITH ANSWERED LT COL GARDNER, LOOKING DIRECTLY AT HIM, WITH EQUAL FIRMNESS, "WELL YOU HAVE A WHOLE WING WITH ONLY SIX PEOPLE THERE." (POINTING TO THE OTHER SIDE OF THE BLD.) AT THAT POINT, I FELT THE DISCUSSION GETTING MORE HEATED AND STRAINED. I EXPECTED THEM TO LEAVE SHORTLY. I DIDN'T FEEL IT WAS APPROPRIATE TO REMAIN JUST TO WATCH AND LISTEN TO A HEATED ARGUMENT INVOLVING MY MANAGEMENT, I EXCUSED MYSELF AND WENT BACK TO MY OFFICE.

I only answered for the timeline you directed, i.e. when "you broke off from the group and returned to your office." If you need more of the timeline, please let me know.

Thanks
ed

-----Original Message-----

From: (b) (6)
Sent: Monday, September 29, 2014 12:11 PM
To: Rotchford CIV Edward P
Subject: COMMAND INVESTIGATION

Mr Rotchford,

I know you are very busy, but if I could impose upon you to type me an email covering the below listed subjects of our interview I can wrap this up today:

- How long has the REA office occupied its current location (in years)
- How many civilians and Marines work in that section?
- Is the below paragraph accurate? If so, please include it into your email statement. If not, please edit.

n. Mr. Griffith had notified the REA officer, Mr. Edward P. Rotchford, of the meeting prior to their arrival. Mr. Rotchford was aware of the contention over the use of the office space, and wanted to be as helpful as possible. Accordingly, Mr. Rotchford met Captain Faunce near the door as the three men entered the REA section. He then escorted Captain Faunce around the section, answering questions and providing Captain Faunce with information on the use of each desk and office. LtCol Gardner and Mr. Griffith stood near the section entrance while Mr. Rotchford and Captain Faunce walked through the section. Due to the small size of the office, Captain Faunce could see that neither was speaking as he toured the area. The REA section a short rectangle, with desks running along each long wall generally facing inward. There is walking path between the desks. If one were to stand at the head of the office and look to the back wall, he would see five "L" shaped desks on the left stretching to the back wall, and one desk on the right followed by three individual offices stretching to the back wall.

- Describe when you broke off from the group and returned to your office.

(b) (6)

This picture shows the REA
Section entrance doors from
CW02 Zagola's desk.

15



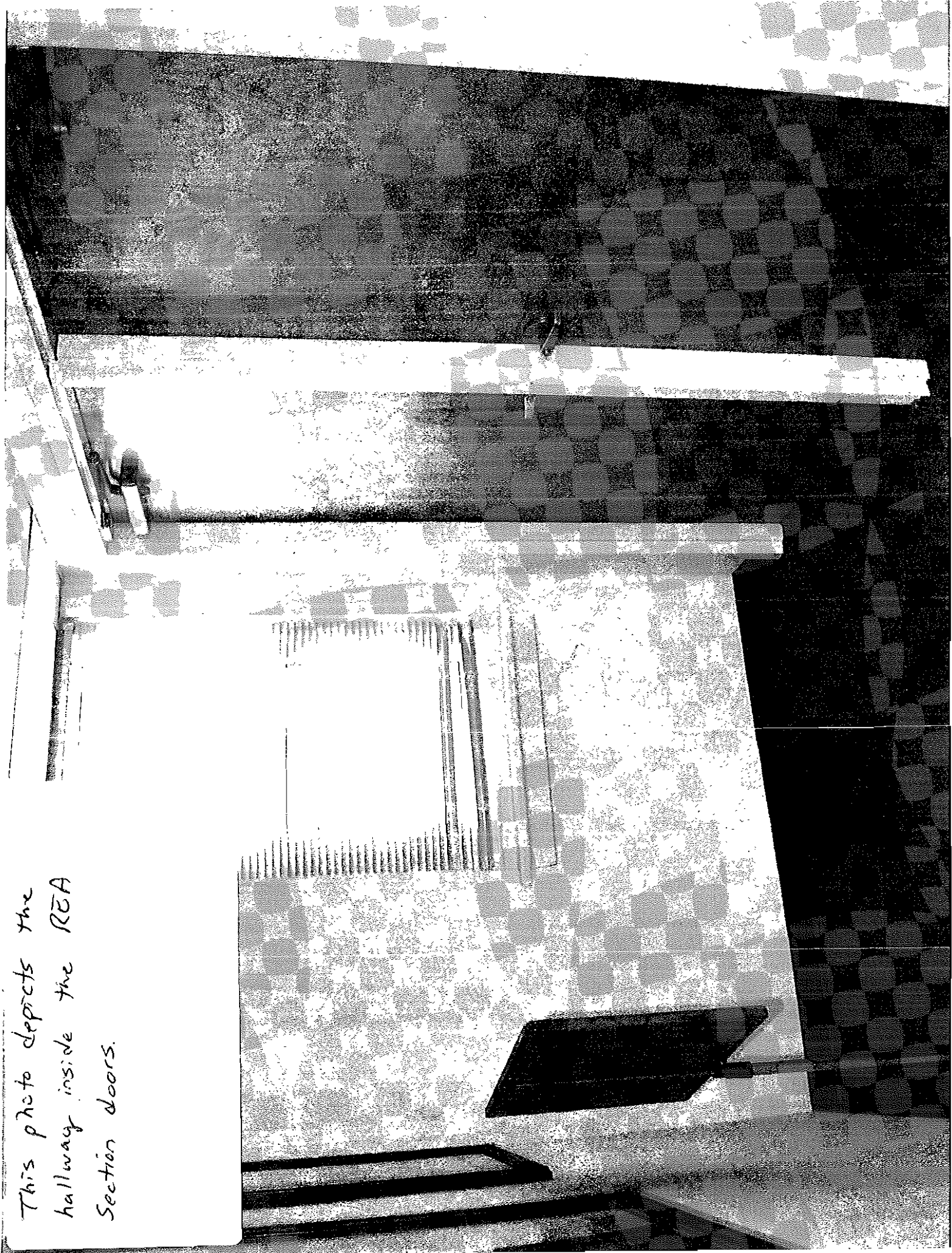
This photo depicts the REA
Section entrance doors sitting
at CW02 Zagala's desk.

HYUNDAI

HYUNDAI

FILE #44588
Caucasian Male
DOB 6/15/1965
MARRIED
MARRIED

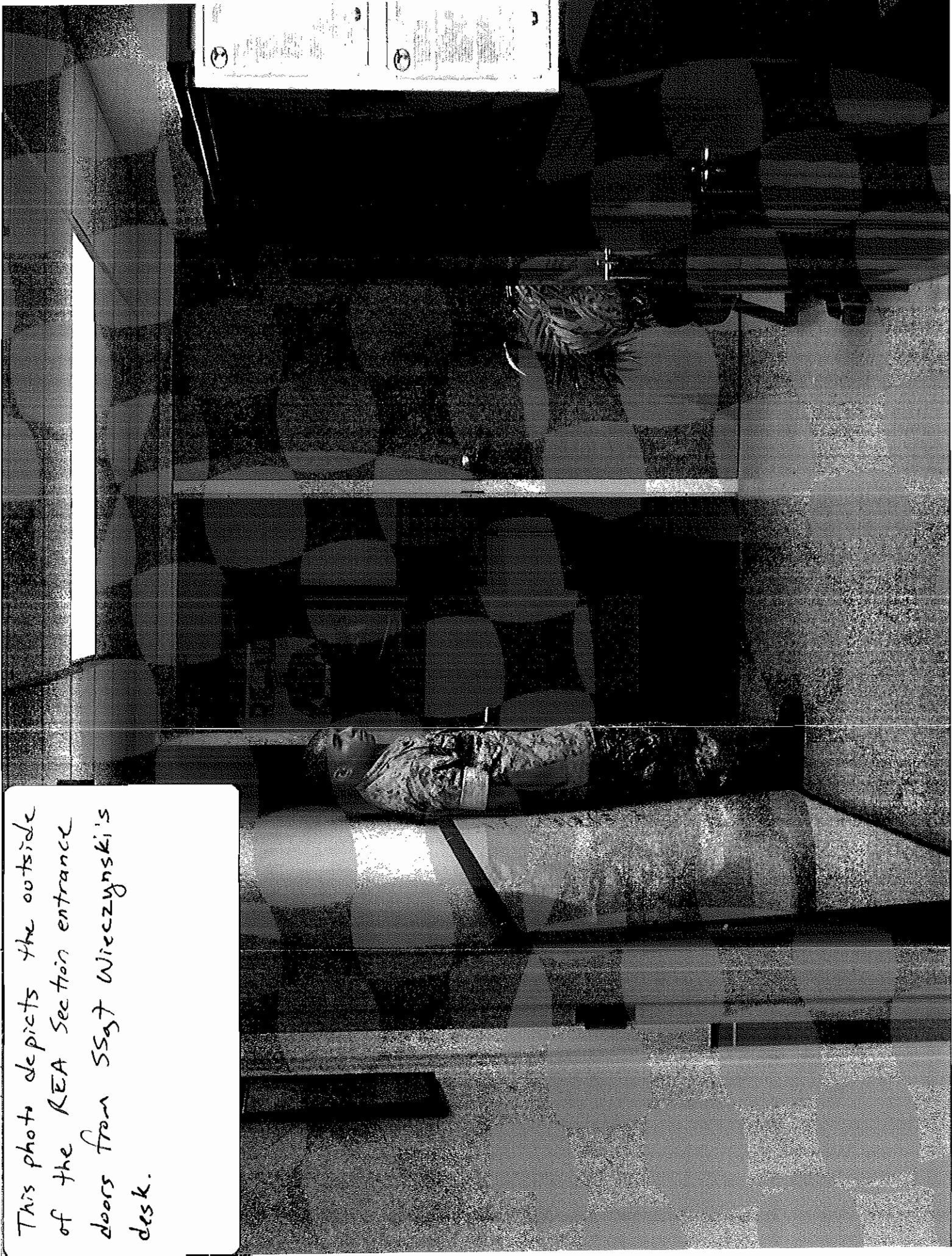
This photo depicts the
hallway inside the REA
Section doors.





This photo depicts the hallway inside the R&A Section entrance doors.





This photo depicts the outside of the REA Section entrance doors from SSgt Wieczynski's desk.

ARTICLE 31 RIGHTS

Name: JASON B. FAUNCE Rank/Rate: CAPT /O-6
Activity: MCIEAST-MCB CAULEY Unit: H&S BN
Telephone Number: 910-451-3034

I have been advised that I may be suspected of the offense(s) of: DERELICTION
OF DUTY and that:

- ☒ I have the right to remain silent
☒ Any statements I do make may be used as evidence against me in trial by court-martial.
☒ I have the right to consult with legal counsel prior to any questioning. This legal counsel may be a civilian lawyer retained by me at my own expenses, a military lawyer appointed to act as my counsel without cost to me, or both.
☒ I have the right to have such retained civilian lawyer and/or appointed military lawyer present during this interview.
☒ I have the right to terminate this interview at any time.

WAIVER OF RIGHTS

- ☒ I further certify and acknowledge that I have read the above statement of my rights and fully understand them, and that:
- ☒ I expressly desire to waive my right to remain silent.
☐ I expressly desire to make a statement.
☒ I expressly do not desire to consult with either a civilian lawyer retained by me or a military lawyer appointed as my counsel without cost to me prior to questioning.
☒ I expressly do not desire to have such a lawyer present with me during this interview.
☒ This acknowledgement and waiver of rights is made freely and voluntarily by me, and without any promises or threats having been made to me or pressure or coercion of any kind having been used against me.

(b) (6)

(b) (6)

22 SEP 14
(Witness Signature & Date)

22 SEP 14
(Member Signature & Date)

****Continued on next page (If statement provided)****

ENC. (16)



UNITED STATES MARINE CORPS
MARINE CORPS INSTALLATIONS EAST-MARINE CORPS BASE
PSC BOX 20005
CAMP LEJEUNE, NC 28542-0005

IN REPLY REFER TO:
5800
EACO
24 Sep 14

From: Commander, Marine Corps Installations East
To: Captain Jason B Faunce, USN

(b) (6)

ENC 1 (17)

Palmer LtCol Robert G

From: Faunce CAPT Jason B
Sent: Monday, September 29, 2014 4:03 PM
To: (b) (6)
Subject: RE: COMMAND INVESTIGATION
Attachments: Bldg 8 site visit (6.96 KB)
Signed By: (b) (6)

As requested, I can provide answers to the following questions:

- Who asked you to develop a list of pros and cons about the REA space in building 8 (I believe you said it was the CoS?)

MCIEAST-MCB CAMLEJ Chief of Staff Col McCarthy asked me to develop a list of pros and cons for occupancy of the REA space in building 8 by either G-8/REA Branch or H&S BN.

- When and how did you notify the attendees of the meeting?

I emailed LtCol Gardner and Mr. Griffith on Tuesday, 9 September, that I would ask (b) (6) from my office to schedule a site visit. That email is attached.

- How did you meet them, whose office did you walk to first?

The meeting was scheduled for Wednesday, 17 September, at 1445. I walked from my office in Bldg 12 to Bldg 8, where I met Mr. Griffith in his office on the first deck. Then we walked together to LtCol Gardner's office on the second deck of Bldg 8.

- How long did you spend at each office?

I did not linger in Mr. Griffith's office but rather walked in and then immediately walked out. I do not remember spending more than five minutes in LtCol Gardner's office. Mr. Griffith was with me in LtCol Gardner's office.

- When you were walking through the REA section, could you see LtCol Gardner and Mr Griffith?

I could not see LtCol Gardner or Mr. Griffith while I was walking with Mr. Rotchford from the entrance of the REA office to the back of the office, but I could see them both when we reached the end of the office and started walking back towards the office entrance.

- Were they talking when you walked through the section?

I did not observe them talking while I was walking through the section.

- Describe with as much detail as possible exactly where everyone stood and

what was said immediately before and during the fight.

While I was walking through the REA space, LtCol Gardner and Mr. Griffith were standing with their backs to the wall next to the door leading out of the space. When I returned to the entrance of the REA section, I passed in front of them to a position directly in front of the doorway. I turned so that I was facing the other two. Mr. Griffith then stepped away from the wall and turned so that he was facing towards LtCol Gardner and me. LtCol Gardner remained with his back against the wall, although he moved closer to the door, nearly to the doorframe. As I was looking at the two, LtCol Gardner was to the left and Mr. Griffith was to the right. What was said is contained in my statement to PMO.

Very Respectfully,
Jason Faunce
CAPT, CEC, USN
Assistant Chief of Staff, Facilities (G-F)
Marine Corps Installations East
Marine Corps Base Camp Lejeune
(o) 910-451-3034
(m) 910-459-0526
(b) (6)

(b) (6)

From: Faunce CAPT Jason B (b) (6)
Sent: Tuesday, September 09, 2014 5:16 PM
To: Gardner LtCol Harry L; Griffith CIV Scott M (b) (6)
Cc:
Subject: Bldg 8 site visit
Signed By: (b) (6)

Harry, Scott,

The Chief asked me to summarize for him the pros and cons concerning use by either G8 or HQ & Spt BN of that section of the 2nd deck of Bldg 8 that is currently occupied by G8. I will ask Margaret from my office to schedule a site visit, and I would like to do so when both of you would be available. I have leave planned for the rest of the week, so you can either meet this week with Tony Sholar or meet next week with me.

Very Respectfully,
Jason Faunce
CAPT, CEC, USN
Assistant Chief of Staff, Facilities (G-F)
Marine Corps Installations East
Marine Corps Base Camp Lejeune
(o) 910-451-3034
(m) 910-459-0526
(b) (6)

Run Time: Tuesday, September 23, 2014 10:59:37 AM.											
Report Info: Site = CAMP_LEJEUNE, Call Detail Recording Summary: Standard Statistics											
Sorted 22 items by: Start Time (ascending)											
Start Date	Originate ID	Start Time	Stop Time	Call Time	Terminate ID	Dialed Digits	Outpulsed Digits	Auth Code	Total Calls	Calling Number	
Wed Sep-17-14	9104514130	2:50 PM	2:51 PM	0:00:21	FTS03	9919047146237	19047146237		1		
Wed Sep-17-14	FTS03	3:01 PM	3:04 PM	0:02:41	9104514130	4514130			1	9047146237	
Wed Sep-17-14	9104514130	3:11 PM	3:11 PM	0:00:05	CTT16	9919046965100	19046965100		1		
Wed Sep-17-14	9104514130	3:11 PM	3:13 PM	0:01:44	FTS03	9919047146237	19047146237		1		
Summary										22	

(b) (6)

EXCEL (19)

(b) (6)

From: Zagola CWO2 Michael E (b) (6)
Sent: Monday, September 29, 2014 12:33 PM
To: (b) (6)
Subject: RE: COMMAND INVESTIGATION
Signed By: michael.zagola@usmc.mil

Good Afternoon (b) (6)

Below is my response to your questions regarding the incident.

- Who were you on the phone with when the fight broke out?

Ms. Jennifer Baxter of Marine Corp Support Facility Blount Island (904) 714-6237

- What did you do after you put the phone down?

I noticed that LtCol Gardner and Mr. Scott Griffith were fighting by the door to the RE&A office

- What is your phone number?

910-451-4130

- Who were you on the phone with when the fight broke out?

(b) (6) of Marine Corp Support Facility Blount Island (904) 714-6237

- What was the phrase you heard one of the them fighters utter that made you look up??

I heard someone say "don't put your hands on me" and the sound of someone knocked on to a stack of boxes which were by the door to the RE&A Office.

After reviewing the call log for my phone (910-451-4130) with LtCol Palmer, I can say with reasonable assurance that the fight started between 1501 and 1504 local time.

Please let me know if you have any additional questions or need additional clarification, I am more than willing to assist.

Respectfully,

CWO2 Michael E Zagola Jr
(b) (6)

MCI-East/MCB Camp Lejeune
(b) (6)

Comm: (910) 451-4130

Fax: (910) 451-4140

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(b) (6)

From: Peyton CIV Barbara J (b) (6)
Sent: Tuesday, September 30, 2014 8:35 AM
To: (b) (6)
Subject: RE: COMMAND INVESTIGATION
Signed By: (b) (6)

Good Morning, Sir

Sorry for the delay, got side tracked by work and forgot to address your request until I was riding home yesterday.

First of all I had no ideal anything was happening, due to fact of me being on the telephone with a customer; my mind and thought were on my conversation,

While on the telephone, I heard something like someone had drop some boxes.

Didn't look up , not directing myself as where the noise was coming from I continue my conversation with the person on the telephone.

Later the noise got louder that when I heard someone said don't you ever, ever, not sure what the ending to that ever was because I was engaged with my telephone conversation.

I heard CWO Zagola yell , rush from his seat saying to stop that when I looked in that direction .

When all is said and done I had NO ideal whom, why until the next day.

My desk is the second desk from the outside entrance door, where the fight was not visible within my sight unless I arose from desk and not on the telephone.

Thank You

Barbara Peyton

(b) (6)

(b) (6)

DSN: 751-4143 Comm: (910) 451-4143

FAX - DSN 751-4129 Comm: (910) 451-4129

(b) (6)

-----Original Message-----

From: (b) (6)
Sent: Monday, September 29, 2014 12:09 PM

To: (b) (6)
Subject: COMMAND INVESTIGATION

Ma'am,

I know you are very busy today, but if I could impose upon you to write me an email covering the topics we discussed last week, I believe I will be able wrap this up today.

- What was the utterance you heard at the beginning of the fight?
- Where do you sit in the REA office (describe as best you can).

S/F

(b) (6)



UNITED STATES MARINE CORPS
MARINE CORPS INSTALLATIONS EAST-MARINE CORPS BASE
PSC BOX 20005
CAMP LEJEUNE, NC 28542-0005

5800
CO

SEP 25 2014

From: Commander, Marine Corps Installations East, Marine Corps Base, Camp Lejeune
To: Commanding Officer, U.S. Naval Hospital, Camp Lejeune

Ref: (a) Public Law 104-91 (1996)
(b) 45 C.F.R. Part 164.512(k)(1)(i) (2005)
(c) 68 Fed. Reg. 17,357 (April 9, 2003)

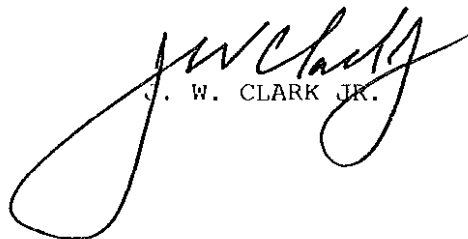
1. The purpose of this correspondence is to request protected health information (PHI) in your possession regarding Lieutenant Colonel Harry L Gardner, USMC who is a member of the United States Marine Corps.

2. Reference (a) is the Department of Health and Human Services Health Insurance Portability and Accountability Act of 1996 (HIPPA). Reference (b) is the implementing federal regulation.

3. Under the provisions of references (a) and (b), HIPPA covered entities may disclose the PHI of individuals who are Armed Forces personnel for activities deemed necessary by appropriate military command authorities to assure the proper execution of the military mission if the appropriate military command authority has published by notice in the Federal Register the (i) appropriate military command authorities and (ii) the purposes for which the protected health information may be used or disclosed. Such a notice, reference (c), was published by the Department of Defense.

4. As the commander exercising authority over Lieutenant Colonel Gardner, I am designated an appropriate military command authority in section 2.1 of that notice. I am requesting the PHI for military justice purposes, a purpose included in section 3 of the notice. I have designated (b) (6), (b) (6), to receive that protected health information as provided for in section 2.1 of the notice.

5. Thank you in advance for your assistance in regard to this matter. (b) (6)
(b) (6)


J. W. CLARK JR.

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HEALTH RECORD

CHRONOLOGICAL RECORD OF MEDICAL CARE

Patient: GARDNER, HARRY L

Date: 19 Sep 2014 0830 EDT

Appt Type: ACUT\$

Treatment Facility: BMC BLDG 15 MCB
CAMP LEJEUNE

Clinic: BLDG 15 - SICKCALL CLINIC

Provider: SWAIN, MATTHEW SCOTT

Patient Status: Outpatient

Reason for Appointment:
evaluationAppointment Comments:
krbInjury/Accident Written by SWAIN, MATTHEW S @ 19 Sep 2014 0838 EDT

Injury Cause/Activity: E960.0 Unarmed fight or brawl

Date of Injury/Accident: 17 Sep 2014 Approximate

Status at Time of Injury/Accident: E000.1 Injury due to military activity

Mechanism of Injury/Accident: E960.0 Unarmed fight or brawl

Place of Occurrence: E849.6 Place of occurrence, Public building

Injury Category for Compensation Code(s): OA-Other Accident

VitalsVitals Written by BENNETT, KAREN R @ 19 Sep 2014 0815 EDTBP: 143/93, HR: 79, RR: 16, T: 97.1 °F, HT: 72 in, WT: 196 lbs, SpO₂: 100%, BMI: 26.58,

BSA: 2.112 square meters, Tobacco Use: No, Alcohol Use: Yes, Pain Scale: 2/10 Mild, Pain Scale Comments: eye

S/O Note Written by SWAIN, MATTHEW SCOTT @ 19 Sep 2014 0842 EDTChief complaint

The Chief Complaint is: Black Eye.

History of present illness

The Patient is a 43 year old male.

Patient does not wish to share details of event, but I am able to elicit that he was struck by a fist on the right temple/lateral orbit two days ago either at work or at work related function. He saw stars for a second but had no LOC, no amnesia, no nausea or vomiting, no irritability, no persisting headache.

Facial pain.

Red eyes.

Review of systems

Systemic: No fever, no chills, and no recent weight loss.

Head: No headache and no sinus pain.

Eyes: No vision problems, no blurred vision, no itching of the eyes, and no eye pain. No discharge from the eyes and no photophobia.

Otolaryngeal: No earache, no nasal discharge, no nasal passage blockage (stiffness), and no sore throat.

Cardiovascular: No chest pain or discomfort.

Pulmonary: No dyspnea and no cough.

Gastrointestinal: No nausea, no vomiting, no abdominal pain, no bright red blood per rectum, no diarrhea, and no constipation.

Genitourinary: No change in urinary frequency and no feelings of urinary urgency. No dysuria.

Musculoskeletal: No back pain.

Neurological: No dizziness, no vertigo, no lightheadedness, no fainting, no memory lapses or loss, no motor disturbances, and no gait abnormality. No sensory disturbances.

Physical findingsVital Signs:

• Temperature: Reviewed. • RR: Reviewed. • PR: Reviewed. • Blood pressure: Reviewed.

General Appearance:

• Normal. • Well developed. • Well nourished. • In no acute distress.

Head:

Injuries: • Evidence of a head injury.

Appearance: • Head normocephalic.

Eyes:General/bilateral:

• Eyes: small hyphema at 6-8 pm right iris; EOMI no palsy.

Pupils: • PERRL. • Size of the pupil was normal. • Pupil accommodation was not impaired.

External: • Eyelids showed no abnormalities. • Conjunctiva exhibited no abnormalities.

Sclera: • Normal.

Optic Disc: • Normal.

Name: GARDNER, HARRY L

Sex: M

Sponsor Name: GARDNER, HARRY L

FMP/SSN: 20/3664

DoD ID:

Rank: LIEUTENANT COLONEL

DOB: 07 Oct 1970

Tel If: 202-957-4424

Unit: 31001013

PAT CAT: M11 USMC ACTIVE DUTY

Tel W: 910-451-5463

OutPAT RR: BLDG 15 - FILE

MC Status:

CS:

Insurance: No

Status

PCM: KING, KEVIN J

Tel. PCM: 910-449-0545

CIC:

CHRONOLOGICAL RECORD OF MEDICAL CARE

THIS INFORMATION IS PROTECTED BY THE PRIVACY ACT OF 1974 (PL-93-579). UNAUTHORIZED ACCESS
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STANDARD FORM 600 (REV. 5)

Prescribed by GSA and ICMR

FIRM (41 CFR) 201-45.505

HEALTH RECORD	CHRONOLOGICAL RECORD OF MEDICAL CARE
19 Sep 2014 0830	Facility: NH Camp LeJeune Clinic: BLDG 15 - SICKCALL CLINIC Provider: SWAIN,MATTHEW SCOTT

Retina: ° Normal.

Ears:

General/bilateral:

Outer Ear: ° Normal.

External Auditory Canal: ° External auditory meatus normal.

Right Ear:

External Auditory Canal: ° Normal.

Tympanic Membrane: ° No bulging tympanic membrane. ° Not erythematous.

Middle Ear: ° No fluid in middle ear.

Left Ear:

External Auditory Canal: ° Normal.

Tympanic Membrane: ° No bulging tympanic membrane. ° Not erythematous.

Middle Ear: ° No fluid in middle ear.

Nose:

General/bilateral:

Discharge: ° No nasal discharge seen.

External Deformities: ° No external nose deformities.

Cavity: ° Nasal septum normal. ° Nasal mucosa normal. ° Nasal turbinate not erythematous. ° Nasal turbinate not swollen.

Sinus Tenderness: ° No sinus tenderness.

Oral Cavity:

Lips: ° Showed no abnormalities.

Buccal Mucosa: ° Examination showed no abnormalities.

Pharynx:

Oropharynx: ° Normal. ° Tonsils showed no abnormalities.

Neurological:

Sensation: ° No sensory exam abnormalities were noted.

Motor (Strength): ° Strength of the upper extremities was normal. ° No lower extremity weakness was observed.

Coordination / Cerebellum: ° No impairment of finger-to-nose movement was seen. ° No impairment of heel-to-shin movement was seen.

Balance: ° Normal. ° Romberg's sign was absent.

Gait And Stance: ° Normal.

Reflexes: ° Deep tendon reflexes were normal.

A/P Last updated by SWAIN,MATTHEW S @ 19 Sep 2014 1137 EDT

I. MINOR HEAD INJURY: No symptoms of concussion, no sign of entrapment, no visual symptoms. Feels safe at home, today feels safe at work, where this injury occurred. Orbit xray requested for screening.

Radiology(ies): -CT ORBITS W/O CONTRAST (ASAP) Ordered By: SWAIN,MATTHEW S Ordering Provider: SWAIN, MATTHEW SCOTT Impression: D/W Dr Burkhardt cannot rule out blowout right orbit (see plain film from 9/19)

Injury Cause(s)/Activity(ies): -E960.0 Unarmed fight or brawl

Disposition Last updated by SWAIN,MATTHEW S @ 19 Sep 2014 1137 EDT

Released w/o Limitations

Follow up: as needed with PCM.

Discussed: Diagnosis, Medication(s)/Treatment(s), Alternatives, Potential Side Effects with Patient who indicated understanding.

Signed By SWAIN, MATTHEW S (Physician/Workstation, BMC Hadnot Point) @ 19 Sep 2014 1138

CHANGE HISTORY

The following Disposition Note Was Overwritten by SWAIN,MATTHEW S @ 19 Sep 2014 1137 EDT:

The Disposition section was last updated by SWAIN,MATTHEW S @ 19 Sep 2014 1137 EDT - see above. Previous Version of Disposition section was entered/updated by SWAIN,MATTHEW S @ 19 Sep 2014 0857 EDT.

Released w/o Limitations

Follow up: as needed with PCM.

Discussed: Diagnosis, Medication(s)/Treatment(s), Alternatives, Potential Side Effects with Patient who indicated understanding.

The following A/P Note Was Overwritten by SWAIN,MATTHEW S @ 19 Sep 2014 1137 EDT:

The A/P section was last updated by SWAIN,MATTHEW S @ 19 Sep 2014 1137 EDT - see above. Previous Version of A/P section was entered/updated by SWAIN,MATTHEW S @ 19 Sep 2014 0857 EDT.

I. MINOR HEAD INJURY: No symptoms of concussion, no sign of entrapment, no visual symptoms. Feels safe at home, today feels safe at work, where this injury occurred. Orbit xray requested for screening.

Injury Cause(s)/Activity(ies): -E960.0 Unarmed fight or brawl

Name: GARDNER, HARRY L

Sex: M

Sponsor Name: GARDNER, HARRY L

FMP/SSN: 20/3664

DoD ID:

Rank: LIEUTENANT COLONEL

DOB: 07 Oct 1970

Tel H: 202-957-4424

Unit: 31001013

PAT CAT: MII USMC ACTIVE DUTY

Tel W: 910-451-5463

OutPAT RR: BLDG 15 - FILE

MC Status:

CS:

Insurance: No

Status

PCM: KING,KEVIN J

Tel. PCM: 910-449-0545

CIC:

CHRONOLOGICAL RECORD OF MEDICAL CARE

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STANDARD FORM 600 (REV. 5)
Prescribed by GSA and ICMR
FIRM (41 CFR) 201-45.505

HEALTH RECORD	CHRONOLOGICAL RECORD OF MEDICAL CARE		
19 Sep 2014 0830	Facility: NH Camp LeJenne	Clinic: BLDG 15 - SICKCALL CLINIC	Provider: SWAIN,MATTHEW SCOTT

The following Signature(s) No Longer Applies because this Encounter Was Opened for Amendment by SWAIN,MATTHEW S @ 19 Sep 2014 1129 EDT:

Signed SWAIN, MATTHEW SCOTT (Physician/Workstation, BMC Hadnot Point) @ 19 Sep 2014 0857

The following Disposition Note Was Overwritten by SWAIN,MATTHEW S @ 19 Sep 2014 0857 EDT:

The Disposition section was last updated by SWAIN,MATTHEW S @ 19 Sep 2014 0857 EDT - see above.Previous Version of Disposition section was entered/updated by SWAIN,MATTHEW S @ 19 Sep 2014 0855 EDT.

Released w/o Limitations

Follow up: as needed with PCAL

Discussed: Diagnosis, Medication(s)/Treatment(s), Alternatives, Potential Side Effects with Patient who indicated understanding.

The following A/P Note Was Overwritten by SWAIN,MATTHEW S @ 19 Sep 2014 0857 EDT:

The A/P section was last updated by SWAIN,MATTHEW S @ 19 Sep 2014 0857 EDT - see above.Previous Version of A/P section was entered/updated by SWAIN,MATTHEW S @ 19 Sep 2014 0842 EDT.

1. MINOR HEAD INJURY: No symptoms of concussion, no sign of entrapment, no visual symptoms. Feels safe at home, today feels safe at work, where this injury occurred.
 Radiology(ies): -SINUS SERIES (3) 70220 (Routine) Ordered By: SWAIN,MATTHEW S Ordering Provider: SWAIN, MATTHEW SCOTT Impression:
 Screening, contusion of right eye s/p punch without LOC/conc
 Injury Cause(s)/Activity(ies): -E960.0 Unarmed fight or brawl

The following Signature(s) No Longer Applies because this Encounter Was Opened for Amendment by SWAIN,MATTHEW S @ 19 Sep 2014 0858 EDT:

Signed SWAIN, MATTHEW SCOTT (Physician/Workstation, BMC Hadnot Point) @ 19 Sep 2014 0855

Name: GARDNER, HARRY L

FMP/SSN: 20/3664

DOB: 07 Oct 1970

PAT CAT: M11 USMC ACTIVE DUTY

MC Status:

Status

CIC:

Sex: M

DoD ID:

Tel H: 202-957-4424

Tel W: 910-451-5463

CS:

PCM: KING,KEVIN J

Sponsor Name: GARDNER, HARRY L

Rank: LIEUTENANT COLONEL

Unit: 31001013

OutPAT RR: BLDG 15 - FILE

Insurance: No

Tel. PCM: 910-449-0545

CHRONOLOGICAL RECORD OF MEDICAL CARE

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STANDARD FORM 600 (REV. 5)
 Prescribed by GSA and ICMR
 FIRM (41 CFR) 201-45.505

HEALTH RECORD**CHRONOLOGICAL RECORD OF MEDICAL CARE**

Patient: GARDNER, HARRY L
Treatment Facility: BMC BLDG 15 MCB
CAMP LEJEUNE
Patient Status: Outpatient

Date: 22 Sep 2014 1028 EDT
Clinic: BLDG 15 - SICKCALL CLINIC

Appt Type: T-CON*
Provider: SWAIN, MATTHEW SCOTT

Call Back Phone: (202)-957-4424

Reason for Telephone Consult: Written by SWAIN, MATTHEW S @ 22 Sep 2014 1028 EDT
CT result

A/P Written by SWAIN, MATTHEW S @ 22 Sep 2014 1051 EDT

I. CLOSED SKULL FRACTURE OF ORBITAL FLOOR (BLOW-OUT): Discussed with Dr Perez at ENT, most likely stable non-operative but will see in conjunction with optho ASAP. Discussed with patient. ENT will have clinic manager call patient on cell number.

Consult(s): -Referred To: ENT/OTOLARYNGOLOGY CONSULT (ASAP) Specialty: OTORHINOLARYNGOLOGY
Clinic: REFERRAL MANAGEMENT CENTER Provisional Diagnosis: CLOSED SKULL FRACTURE OF ORBITAL FLOOR (BLOW-OUT) Ordered By: SWAIN, MATTHEW S Ordering Provider: SWAIN, MATTHEW SCOTT
-Referred To: OPHTHALMOLOGY CONSULT (ASAP) Specialty: OPHTHALMOLOGY Clinic: REFERRAL MANAGEMENT CENTER Provisional Diagnosis: CLOSED SKULL FRACTURE OF ORBITAL FLOOR (BLOW-OUT) Ordered By: SWAIN, MATTHEW S Ordering Provider: SWAIN, MATTHEW SCOTT

Injury Cause(s)/Activity(ies): -E960.0 Unarmed fight or brawl

Disposition Written by SWAIN, MATTHEW S @ 22 Sep 2014 1051 EDT

Follow up: as needed with PCM.

Discussed: Diagnosis, Medication(s)/Treatment(s), Alternatives, Potential Side Effects with Patient who indicated understanding.

Administrative Options: Consultation requested

Signed By SWAIN, MATTHEW S (Physician/Workstation, BMC Hadnot Point) @ 22 Sep 2014 1052

Name: GARDNER, HARRY L

Sex: M
DoD ID:
Tel H: 202-957-4424
Tel W: 910-451-5463
CS:
PCM: KING, KEVIN J

Sponsor Name: GARDNER, HARRY L
Rank: LIEUTENANT COLONEL
Unit: 31001013
OutPAT RR: BLDG 15 - FILE
Insurance: No
Tel. PCM: 910-449-0545

FMP/SSN: 20/3664

DOB: 07 Oct 1970

PAT CAT: M11 USMC ACTIVE DUTY

MC Status:

Status

CIC:

CHRONOLOGICAL RECORD OF MEDICAL CARE

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STANDARD FORM 600 (REV. 5)
Prescribed by GSA and ICMR
FIRM (41 CFR) 201-45.505

HEALTH RECORD

CHRONOLOGICAL RECORD OF MEDICAL CARE

Patient: GARDNER, HARRY L
Treatment Facility: NH CAMP LEJEUNE
Patient Status: Outpatient

Date: 22 Sep 2014 1230 EDT
Clinic: OPHTHALMOLOGY CLINIC

Appt Type: SPEC
Provider: STOLLDORF, HUNTER SCOTT

Reason for Appointment:
CLOSED SKULL FRACTURE OF ORBITAL FLOOR (BLOW-OUT)
Appointment Comments:
sjc

Note Written by COLLINS, SUSAN H @ 22 Sep 2014 1540 EDT

Head Hospital Camp Lejeune, Division EDOA
Age: 45 Birthday: 07 Oct 1970
No Males ☒ ASD Record not completed
Occupation: Civil R. 1. Firefighter

Optimology Department
Race: ☒ Caucasian ☐ African American ☐ Asian ☐ Hispanic
Last Eye Surgery: ☐ None ☐ PPH, IL ☐ None ☐ PPH, IL
IGL ed oil ☐ IGL ed oil ☐ IGL ed oil
BULB, brow, phos ☐ BULB, brow, phos ☐ BULB, brow, phos
Shah ☐ Shah ☐ Shah
EPV/SD/IRP ☐ EPV/SD/IRP ☐ EPV/SD/IRP
LASIK/CRS ☐ LASIK/CRS ☐ LASIK/CRS
Pharyngotomy ☐ Pharyngotomy ☐ Pharyngotomy

Level of Vision: 2 3 4 5 6 7 8 9 10 (3) Maximal and minimal vision
Current Glasses: ☐ Yes ☐ No ☐ Yes ☐ No ☐ Yes ☐ No
OS: ☐ OS ☐ OS ☐ OS ☐ OS ☐ OS ☐ OS
OD: ☐ OD ☐ OD ☐ OD ☐ OD ☐ OD ☐ OD

Original Fracture OD
43 y/o OD punched in ab 5 days ago here for floor fx oval, Nerve
any vision problems, photophobia, or eyeball pain p injury.

No significant periorbital edema
OD but ⊕ yellowish ecchymoses

Heard < 20
2045

Facial injection

CT Face: small, posterior floor fx ab

Orbital Floor Fx OD - appears nonsurgical.
Reviewed RD signs. F/u routinely if needed.

GARDNER, HARRY L
20/XXX-XX-3664
1048431247
22 Sep 2014, 1219

Name: GARDNER, HARRY L

FMP/SSN: 20/3664

DOB: 07 Oct 1970

PAT CAT: M11 USMC ACTIVE DUTY

MC Status:

Status

CIC:

Sex: M

DoD ID:

Tel H: 202-957-4424

Tel W: 910-451-5463

CS:

PCM: KING, KEVIN J

Sponsor Name: GARDNER, HARRY L

Rank: LIEUTENANT COLONEL

Unit: 31001013

OutPAT RR: BLDG 15 - FILE

Insurance: No

Tel. PCM: 910-449-0545

CHRONOLOGICAL RECORD OF MEDICAL CARE

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STANDARD FORM 600 (REV. 5)
Prescribed by GSA and ICNIR
FIRMIR (41 CFR) 201-45.505

HEALTH RECORD	CHRONOLOGICAL RECORD OF MEDICAL CARE		
22 Sep 2014 1230	Facility: NII Camp LeJeune	Clinic: OPHTHALMOLOGY CLINIC	Provider: STOLLDORF,HUNTER SCOTT

A/P Last Updated by STOLLDORF,HUNTER S @ 22 Sep 2014 1428 EDT

1. FRACTURE OF SKULL - ORBITAL FLOOR 802.6

Procedure(s): -(92004) Ophthalmological New Patient Start Comprehensive Care x 1

Disposition Last Updated by STOLLDORF,HUNTER S @ 22 Sep 2014 1428 EDT

Released w/o Limitations

Follow up: in the OPHTHALMOLOGY CLINIC clinic.

Discussed: Diagnosis, Medication(s)/Treatment(s), Alternatives, Potential Side Effects with Patient who indicated understanding.

Note Written by CROSS,STEVEN J @ 22 Sep 2014 1219 EDT

Consult Order

Referring Provider: SWAIN, MATTHEW S

Date of Request: 22 Sep 2014

Priority: ASAP

Provisional Diagnosis:

CLOSED SKULL FRACTURE OF ORBITAL FLOOR (BLOW-OUT)

Reason for Request:

right orbital floor blowout fx no visual or EOM symptoms d/w DR Perez at ENT this morning who will d/w Oph on call

Signed By STOLLDORF, HUNTER S (Ophthalmologist) @ 23 Sep 2014 1349

Name: GARDNER, HARRY L

Sex: M

Sponsor Name: GARDNER, HARRY L

DoD ID:

Rank: LIEUTENANT COLONEL

Tel H: 202-957-4424

Unit: 31001013

Tel W: 910-451-5463

OutPAT RR: BLDG 15 - FILE

CS:

Insurance: No

PCM: KING,KEVIN J

Tel. PCM: 910-449-0545

FMP/SSN: 20/3664

DOB: 07 Oct 1970

PAT CAT: MII USMC ACTIVE DUTY

MC Status:

Status

CIC:

CHRONOLOGICAL RECORD OF MEDICAL CARE

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STANDARD FORM 600 (REV. 5)

Prescribed by GSA and ICMR

FIRM (41 CFR) 201-45.505

HEALTH RECORD

CHRONOLOGICAL RECORD OF MEDICAL CARE

Patient: GARDNER, HARRY L
Treatment Facility: NH CAMP LEJEUNE
Patient Status: Outpatient

Date: 22 Sep 2014 1330 EDT
Clinic: ENT CLINIC

Appt Type: SPEC
Provider: PEREZ, ANGEL J

Reason for Appointment:
CLOSED SKULL FRACTURE OF ORBITAL FLOOR (BLOW-OUT)
Appointment Comments:
JAR

Vitals

Vitals Written by ROEDER, JESSICA A @ 22 Sep 2014 1318 EDT

BP: 130/88, HR: 73, RR: 18, HT: 72 in, WT: 196 lbs, BMI: 26.58, BSA: 2.112 square meters, Tobacco Use: No,
Alcohol Use: Yes, Pain Scale: 2/10 Mild,
Pain Scale Comments: Face

S/O Note Written by PEREZ, ANGEL J @ 22 Sep 2014 1558 EDT

Chief complaint

The Chief Complaint is: Right orbital fx.

History of present illness

The Patient is a 43 year old male.
43 y/o M Marine who sustained a right, minimally displaced orbital floor fracture 5 days ago. Single punch to right face. Had moderate swelling and redness, now much better after ice. Has occasional dysesthesia of the right upper teeth but no cheek numbness. No blurry or double vision, able to look up with eyes without issues.

Past medical/surgical history

Reported:

Medical: Reported medical history: reviewed
No history of cancer.
Medications: Medication history: Current medications reviewed and reconciled.

Diagnoses:

No allergic rhinitis.
No hypertension.
No coagulation defects

Review of systems

Systemic: No generalized pain. No fever, no chills, no night sweats, and no recent weight loss.

Gastrointestinal: No nausea and no vomiting.

Physical findings

Vital Signs:

• Temperature: Reviewed. • RR: Reviewed. • PR: Reviewed. • SBP: Reviewed.

General Appearance:

• Well developed. • Well nourished. • In no acute distress.

Neck:

Palpation: • No tenderness of the neck.
Thyroid: • Showed no abnormalities.
Cervical Mass: • No cervical mass was seen.

Eyes:

General/bilateral:
Extraocular Movements: • Normal.
Pupils: • PERRL.
External: • Conjunctiva exhibited no abnormalities.
Sclera: • Normal.

Ears:

General/bilateral:
External Auditory Canal: • Normal.
Tympanic Membrane: • Normal. • No retraction of tympanic membrane. • Mobility normal.

Nose:

General/bilateral:
External Deformities: • No external nose deformities.

Oral Cavity:

Lips: • Showed no abnormalities.
Tongue: • Examination showed no abnormalities.

Lymph Nodes:

Name: GARDNER, HARRY L

Sex: M

Sponsor Name: GARDNER, HARRY L

FMP/SSN: 20/3664

DoD ID:

Rank: LIEUTENANT COLONEL

DOB: 07 Oct 1970

Tel H: 102-957-4424

Unit: 31001013

PAT CAT: M11 USMC ACTIVE DUTY

Tel W: 910-451-5463

OutPAT RR: BLDG 15 - FILE

MC Status:

CS:

Insurance: No

Status

PCM: KING, KEVIN J

Tel. PCM: 910-449-0545

CIC:

CHRONOLOGICAL RECORD OF MEDICAL CARE

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STANDARD FORM 600 (REV. 5)
Prescribed by GSA and ICMR
FIRM (41 CFR) 201-45.505

HEALTH RECORD	CHRONOLOGICAL RECORD OF MEDICAL CARE		
22 Sep 2014 1330	Facility: NH Camp LeJeune	Clinic: ENT CLINIC	Provider: PEREZ,ANGEL J

° Cervical lymph nodes were not enlarged. ° Submandibular lymph nodes were not enlarged. ° Supraclavicular lymph nodes were not enlarged.

Neurological:

° Oriented to time, place, and person.

Cranial Nerves: ° No trigeminal neuropathy. ° No facial nerve palsy was noted.

Psychiatric:

Mood: ° Euthymic.

Affect: ° Normal.

Skin:

• Showed ecchymosis. ° No skin lesions.

Right periorbital ecchymosis, no residual edema, PERL, EOMI. Tender rim medially, palpable fracture line, no other deformity or stepoff.

Rad Result Cited by PEREZ,ANGEL J @ 22 Sep 2014 1616 EDT

GARDNER, HARRY L 20/3664 DoD ID: 1048431247 43yo 07 Oct 1970 M
 ***** CT ORBITS W/O CONTRAST *****
 POC Enc: #E602166 POC Fac: NH Camp LeJeune
 Status: Complete

Procedure: CT ORBITS W/O CONTRAST
 Event Date: 19-Sep-2014 11:36:00
 Order Comment: NO BRIEF COMMENT
 Reason for Order:

D/W Dr Burkhardt cannot rule out blowout right orbit (see plain film from 9/19)

Exam #: 14088799
 Exam Date/Time: 19-Sep-2014 16:46:00
 Transcription Date/Time: 20-Sep-2014 07:32:00
 Provider: SWAIN, MATTHEW SCOTT
 Requesting Location:
 BLDG 15 - SICKCALL CLINIC HADNOT POINT, BR MED CLN
 Status: COMPLETE
 Result Code: See Report Text
 Interpreted By: TAYLOR, AARON M
 Supervised By: AARON M. TAYLOR, CAPT MC USN
 Approved By: TAYLOR, AARON M
 Approved Date: 20-Sep-2014 07:32:00
 Report Text:

TECHNIQUE: Axial 2.5 mm CT images were obtained of the orbits, followed by sagittal and coronal reformatted images at 0.8 mm. Comparison is made to radiographs of the orbits from earlier on the same day.

FINDINGS: There is irregularity of the floor of the right orbit, with fat extending into the superior right maxillary sinus. The inferior rectus muscle is normal in position. The remaining orbits, and the globes, appear normal.

There is no dependent fluid in the right maxillary sinus. The other sinuses, and the ethmoid and mastoid air cells, appear normal.

Name: GARDNER, HARRY L

Sex: M

Sponsor Name: GARDNER, HARRY L

FMP/SSN: 20/3664

DoD ID:

Rank: LIEUTENANT COLONEL

DOB: 07 Oct 1970

Tel H: 202-957-4424

Unit: 31001013

PAT CAT: MII USMC ACTIVE DUTY

Tel W: 910-451-5463

OutPAT RR: BLDG 15 - FILE

MC Status:

CS:

Insurance: No

Status

PCM: KING,KEVIN J

Tel. PCM: 910-449-0545

CIC:

CHRONOLOGICAL RECORD OF MEDICAL CARE

THIS INFORMATION IS PROTECTED BY THE PRIVACY ACT OF 1974 (PL-93-579). UNAUTHORIZED ACCESS TO THIS INFORMATION IS A VIOLATION OF FEDERAL LAW. VIOLATORS WILL BE PROSECUTED.

STANDARD FORM 600 (REV. 5)
 Prescribed by GSA and ICMR
 FIRM (41 CFR) 201-45.505

HEALTH RECORD	CHRONOLOGICAL RECORD OF MEDICAL CARE		
22 Sep 2014 1330	Facility: NH Camp LeJeune	Clinic: ENT CLINIC	Provider: PEREZ,ANGEL J

The nasal bones and zygomatic arches are intact.

CONCLUSIONS: Irregularity of the floor of the right orbit, likely due to a blowout fracture. The chronicity of this injury is uncertain.

A/P Written by PEREZ,ANGEL J @ 22 Sep 2014 1629 EDT

1. CLOSED SKULL FRACTURE OF ORBITAL FLOOR (BLOW-OUT): CT scan from 9/19 reviewed, also evaluated by Dr. Stoldorff in ophthalmology. He found no visual deficit, entrapment or enophthalmos. Right orbital floor fracture is minimally displaced, mid floor and just media to ION foramen. Opting to observe given no enophthalmos or diplopia now 5 days out and edema has resolved. Will consider late repair if develops any visual complaints in the next few weeks.

Disposition Written by PEREZ,ANGEL J @ 22 Sep 2014 1630 EDT

Released w/o Limitations

Follow up: as needed in the ENT CLINIC clinic.

Discussed: Diagnosis, Medication(s)/Treatment(s), Alternatives, Potential Side Effects with Patient who indicated understanding.

Note Written by ROEDER,JESSICA A @ 22 Sep 2014 1312 EDT

Consult Order

Referring Provider: SWAIN, MATTHEW S

Date of Request: 22 Sep 2014

Priority: ASAP

Provisional Diagnosis:

CLOSED SKULL FRACTURE OF ORBITAL FLOOR (BLOW-OUT)

Reason for Request:

Right orbital floor blowout fx d/w Dr Perez. Pt Cell 910-376-0020.

Signed By PEREZ, ANGEL J (Otolaryngology - Head and Neck Surgery, Naval Hospital Camp Lejeune, NC) @ 22 Sep 2014 1630

Name: GARDNER, HARRY L

FMP/SSN: 20/3664

DOB: 07 Oct 1970

PAT CAT: M11 USMC ACTIVE DUTY

MC Status:

Status

CIC:

Sex: M

DoD ID:

Tel H: 202-957-4424

Tel W: 910-451-5463

CS:

PCM: KING,KEVIN J

Sponsor Name: GARDNER, HARRY L

Rank: LIEUTENANT COLONEL

Unit: 31001013

OutPAT RR: BLDG 15 - FILE

Insurance: No

Tel. PCM: 910-449-0545

CHRONOLOGICAL RECORD OF MEDICAL CARE

THIS INFORMATION IS PROTECTED BY THE PRIVACY ACT OF 1974 (PL-93-579). UNAUTHORIZED ACCESS TO THIS INFORMATION IS A VIOLATION OF FEDERAL LAW. VIOLATORS WILL BE PROSECUTED

STANDARD FORM 600 (REV. 5)

Prescribed by GSA and ICMR
FIRM (41 CFR) 201-45.505

Radiology Results (Last 10)	GARDNER, HARRY L	FMP:20	SSN:XXX-XX-3664
Age:43yo	DOB:07-Oct-1970	Gender:M	DOD ID:1048431247

GARDNER, HARRY L 20/3664 DoD ID: 1048431247 43yo 07 Oct 1970 M

***** CT ORBITS W/O CONTRAST *****
 POC Enc: #E602166 POC Fac: NH Camp LeJeune
 Status: Complete

Procedure: CT ORBITS W/O CONTRAST
 Event Date: 19-Sep-2014 11:36:00
 Order Comment: NO BRIEF COMMENT
 Reason for Order:
 D/W Dr Burkhardt cannot rule out blowout right orbit (see plain film from 9/19)
 Exam #: 14088799
 Exam Date/Time: 19-Sep-2014 16:46:00
 Transcription Date/Time: 20-Sep-2014 07:32:00
 Provider: SWAIN, MATTHEW SCOTT
 Requesting Location:
 BLDG 15 - SICKCALL CLINIC HADNOT POINT, BR MED CLN
 Status: COMPLETE
 Result Code: See Report Text
 Interpreted By: TAYLOR, AARON M
 Supervised By: AARON M. TAYLOR, CAPT MC USN
 Approved By: TAYLOR, AARON M
 Approved Date: 20-Sep-2014 07:32:00
 Report Text:

TECHNIQUE: Axial 2.5 mm CT images were obtained of the orbits, followed by sagittal and coronal reformatted images at 0.8 mm. Comparison is made to radiographs of the orbits from earlier on the same day.

FINDINGS: There is irregularity of the floor of the right orbit, with fat extending into the superior right maxillary sinus. The inferior rectus muscle is normal in position. The remaining orbits, and the globes, appear normal.

There is no dependent fluid in the right maxillary sinus. The other sinuses, and the ethmoid and mastoid air cells, appear normal.

The nasal bones and zygomatic arches are intact.

CONCLUSIONS: Irregularity of the floor of the right orbit, likely due to a blowout fracture. The chronicity of this injury is uncertain.

GARDNER, HARRY L 20/3664 DoD ID: 1048431247 43yo 07 Oct 1970 M

***** ORBIT SERIES 70200 *****
 POC Enc: #E602166 POC Fac: NH Camp LeJeune
 Status: Complete

Procedure: ORBIT SERIES 70200
 Event Date: 19-Sep-2014 08:53:00
 Order Comment: NO BRIEF COMMENT
 Reason for Order:
 screening, contusion of right eye s/p punch without LOC/concussive sx, no visual symptoms or suggestion of EOM entrapment
 Exam #: 14088624
 Exam Date/Time: 19-Sep-2014 08:53:00
 Transcription Date/Time: 19-Sep-2014 10:25:00
 Provider: SWAIN, MATTHEW SCOTT
 Requesting Location:
 BLDG 15 - SICKCALL CLINIC HADNOT POINT, BR MED CLN
 Status: COMPLETE
 Result Code: See Report Text
 Interpreted By: BURKHARD, THOMAS KINSMAN
 Supervised By: THOMAS K. BURKHARD, MD
 Approved By: BURKHARD, THOMAS KINSMAN
 Approved Date: 19-Sep-2014 10:25:00
 Report Text:

EXAM: Orbital series dated 9/19/14

COMPARISON: NONE

FINDINGS: On the waters view of the skull there is soft tissue swelling noted over lying the right orbit. The right maxillary sinus is slightly denser than the left. There is questionable irregularity of the right inferior orbital floor. I cannot totally exclude a blowout fracture. A CT scan of the orbits can be utilized for further evaluation. IMPRESSION: Soft tissue swelling with

18 U.S. Code § 113 - Assaults within maritime and territorial jurisdiction

Current through Pub. L. 113-163 (<http://www.gpo.gov/fdsys/pkg/PLAW-113publ163/html/PLAW-113publ163.htm>). (See Public Laws for the current Congress (<http://thomas.loc.gov/home/LegislativeData.php?n=PublicLaws>).)

US Code (/uscode/text/18/113?qt-us_code_temp_noupdates=0#qt-us_code_temp_noupdates)

Notes (/uscode/text/18/113?qt-us_code_temp_noupdates=1#qt-us_code_temp_noupdates)

[prev \(/uscode/text/18/112\)](/uscode/text/18/112) | [next \(/uscode/text/18/114\)](/uscode/text/18/114)

(a) Whoever, within the special maritime and territorial jurisdiction of the United States, is guilty of an assault shall be punished as follows:

(1) Assault with intent to commit murder or a violation of section 2241 (</uscode/text/18/2241>) or 2242 (</uscode/text/18/2242>), by a fine under this title, imprisonment for not more than 20 years, or both.

(2) Assault with intent to commit any felony, except murder or a violation of section 2241 (</uscode/text/18/2241>) or 2242 (</uscode/text/18/2242>), by a fine under this title or imprisonment for not more than ten years, or both.

(3) Assault with a dangerous weapon, with intent to do bodily harm, by a fine under this title or imprisonment for not more than ten years, or both.

(4) Assault by striking, beating, or wounding, by a fine under this title or imprisonment for not more than 1 year, or both.

(5) Simple assault, by a fine under this title or imprisonment for not more than six months, or both, or if the victim of the assault is an individual who has not attained the age of 16 years, by fine under this title or imprisonment for not more than 1 year, or both.

(6) Assault resulting in serious bodily injury, by a fine under this title or imprisonment for not more than ten years, or both.

(7) Assault resulting in substantial bodily injury to a spouse or intimate partner, a dating partner, or an individual who has not attained the age of 16 years, by a fine under this title or imprisonment for not more than 5 years, or both.

(8) Assault of a spouse, intimate partner, or dating partner by strangling, suffocating, or attempting to strangle or suffocate, by a fine under this title, imprisonment for not more than 10 years, or both.

(b) **Definitions.**— In this section—

(1) the term "substantial bodily injury" means bodily injury which involves—

(A) a temporary but substantial disfigurement; or

(B) a temporary but substantial loss or impairment of the function of any bodily member, organ, or mental faculty;

(2) the term "serious bodily injury" has the meaning given that term in section 1365 (</uscode/text/18/1365>) of this title;

(3) the terms "dating partner" and "spouse or intimate partner" have the meanings ⁽¹⁾ given those terms in section 2266 (</uscode/text/18/2266>);

com 113 341

(4) the term "strangling" means intentionally, knowingly, or recklessly impeding the normal breathing or circulation of the blood of a person by applying pressure to the throat or neck, regardless of whether that conduct results in any visible injury or whether there is any intent to kill or protractedly injure the victim; and


(5) the term "suffocating" means intentionally, knowingly, or recklessly impeding the normal breathing of a person by covering the mouth of the person, the nose of the person, or both, regardless of whether that conduct results in any visible injury or whether there is any intent to kill or protractedly injure the victim.

[1] So in original. Probably should be "meaning".

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U.S. Code Toolbox

Wex: Criminal Law: Overview (/wex/criminal_law)

Download the PDF (2 pgs) 

(http://www.law.cornell.edu/uscode/pdf/uscode18/lii_usc_TI_18_PA_I_CH_7_SE_113.pdf)

Title 18 USC, RSS Feed  (http://www.law.cornell.edu/uscode/rss/usc_update_18.rss)

Table of Popular Names (</topn>)

Parallel Table of Authorities (</ptoa>)

8+1 0 |



Scholarship from Cornell

- Brad Wendel (<http://www.lawschool.cornell.edu/faculty/bio.cfm?id=83>):
2008 F.W. Wickwire Memorial Lecture: Executive Branch Lawyers in a Time of Terror
(http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1372744)

5-2-2. ASSAULT OR ASSAULT AND BATTERY INVOLVING OTHER THAN DEADLY FORCE

NOTE 1: Using this instruction. *This instruction is distinguished from deadly force situations. When ordinary assault or battery is charged and deadly force is not employed, the standard of self-defense is different from a situation in which deadly force is employed. The accused must only apprehend some bodily harm, not death or grievous bodily harm. However, when the accused only apprehends some bodily harm, the accused is then limited in the force which the accused can legitimately use to defend himself/herself, i.e., the accused may not use such force as would likely cause death or grievous bodily harm.*

The evidence has raised the issue of self-defense in relation to the offense(s) of (state the alleged offense(s)). (There has been (evidence) (testimony) that (here the military judge may specify significant evidentiary factors bearing on the issue and indicate the respective contentions of counsel for both sides).)

Self-defense is a complete defense to the offense(s) of (state the alleged offense(s)).

For self-defense (to exist) (to be a defense to the lesser included offense(s) of (state the lesser included offense(s) raised)), the accused must have had a reasonable belief that bodily harm was about to be inflicted on (him) (her) and (he) (she) must have actually believed that the force (he) (she) used was necessary to prevent bodily harm.

In other words, the defense of self-defense has two parts. First, the accused must have had a reasonable belief that physical harm was about to be inflicted on (him) (her). The test here is whether, under the same facts and circumstances in this case, any reasonably prudent person faced with the same situation, would have believed that (he) (she) would immediately be physically harmed. Because this test is objective, such matters as intoxication or emotional instability of the accused are not relevant. Secondly, the accused must have actually believed that the amount of force (he) (she) used was required to protect (himself) (herself). To determine the accused's actual belief as to the amount of force which was necessary, you must look at the situation through the eyes of the accused. In addition to the circumstances known

to the accused at the time, the accused's (age) (intelligence) (emotional control) (_____) are all important factors in determining the accused's actual belief about the amount of force required to protect (himself) (herself). In protecting (himself) (herself), the accused is not required to use the same amount or kind of force as the attacker. However, the accused cannot use force which is likely to produce death or grievous bodily harm.

The prosecution's burden of proof to establish the guilt of the accused not only applies to the elements of the offense(s) of (state the alleged offense(s)) (and) (to the lesser included offense(s) of (state the lesser included offense(s)) but also to the issue of self-defense. Therefore, in order to find the accused guilty of the offense of (state the alleged offense(s)), you must be convinced beyond reasonable doubt that the accused did not act in self-defense.

NOTE 2: Grievous bodily harm. *The following definition may be given if the term has not yet been defined:*

"Grievous bodily harm" means serious bodily injury. It does not mean minor injuries such as a black eye or a bloody nose, but does mean fractured or dislocated bones, deep cuts, torn members of the body, serious damage to internal organs, or other serious bodily injuries.

NOTE 3: Reasonableness of apprehension of harm. *The ordinary objective standard used to determine whether apprehension of serious bodily harm or death was reasonable must be qualified if there is evidence of a special factor affecting the reasonableness of the apprehension (e.g., sex of the accused, age of the accused, or if the accused is a person who lacks sufficient intelligence to act as a normal prudent adult person). The requirement of reasonableness should be determined in light of these special factors.*

NOTE 4: Other instructions. *Instructions on additional issues in connection with self-defense should be given at this point when appropriate. Sample instructions on the opportunity to retreat/presence of others, accused's state of mind, voluntary intoxication, provocateur/mutual combatant, and escalation of force are included in Instruction 5-2-6.*



UNITED STATES MARINE CORPS
MARINE CORPS BASE
PSC Box 20004
Camp Lejeune, North Carolina 28452-0004

BO 12752.1A

HREL

10 NOV 1998

BASE ORDER 12752.1A

From: Commanding General
To: Distribution List

Subj: DISCIPLINE, CONDUCT, AND ADVERSE ACTIONS

Encl: (1) Definitions
(2) Actions Excluded from Coverage
(3) Delegation of Authority and Responsibilities
(4) Guidance in Effecting Disciplinary Actions
(5) Procedures for Taking Action
(6) Guideline Schedule of Disciplinary Offenses and Recommended Remedies
(7) Investigation Report
(8) Sample letter of Admonishment/Caution
(9) Sample Letter of Reprimand
(10) Sample Letter of Requirement

1. Purpose. To provide instructions and guidance concerning discipline, conduct, and adverse actions as they apply to civil service employees.

2. Cancellation. BO 12752.1.

3. Information

a. This Order applies to all Department of the Navy employees as defined in paragraph 3 of enclosure (1) except for the following:

(1) An employee of a nonappropriated fund instrumentality paid from nonappropriated funds.

(2) Schedule B excepted service employees without competitive status.

b. Actions taken against unit employees must also be in conformance with the applicable negotiated agreement.

c. Disciplinary and adverse actions shall be taken against an employee only for such cause as will promote the efficiency of the service.

12752.1A

BO 12752.1A

10 NOV 1998

d. Disciplinary and adverse actions may not be taken against an employee on the basis of any prohibited personnel practice (5 U.S.C. 2302).

4. Action. All organizations employing civil service personnel shall comply with the instructions contained herein. Organizational commanders, heads of command staff sections, and department heads will ensure that all subordinate managers and supervisors (military and civilian) are thoroughly familiar with the contents of this Order and that the Order is made available to the employees upon request.

5. Concurrence. This Order has been coordinated with and concurred in by the Commanding Officer, Marine Corps Air Station, New River.


B. A. GOMBAR
Chief of Staff

DISTRIBUTION: C less CAT III

10 NOV 1998

DEFINITIONS

1. Adverse Action. A removal, suspension for more than 14 days, reduction in grade or pay, or furlough for 30 days or less.
2. Day. Calendar day.
3. Employee
 - a. For purposes of adverse actions, an individual in the competitive service who is not serving a probationary or trial period under an initial appointment or who has completed one year of current continuous employment under other than a temporary appointment limited to one year or less; and a preference eligible in the excepted service who has completed one year of current continuous service in the same or similar positions.
 - b. For purposes of disciplinary action, an individual paid through appropriated funds regardless of career status or work schedule.
4. Furlough. A temporary status without duties and pay because of lack of work or funds, or other nondisciplinary reasons.
5. Grade. A level of classification under a position classification system.
6. Disciplinary Action. A letter of reprimand or a suspension for 14 days or less.
7. Letter of Admonishment. A written correction by a superior official of an employee's improper conduct.
8. Letter of Reprimand. A written remedy by a superior official for an employee's improper conduct.
9. Corrective Action. An oral admonishment or a letter of admonishment/caution, i.e., an action not recorded in an employee's Official Personnel Folder.
10. Official. A person who has been delegated authority to propose or decide an adverse or disciplinary action under this Order.
11. Oral Admonishment. An oral (unwritten) correction by a superior official of an employee's improper conduct.
12. Pay. The rate of basic pay fixed by a law or administrative action for the position held by an employee.

ENCLOSURE (1)

BO 12752.1A

10 NOV 1998

13. Removal. The involuntary separation of an employee from the activity except when taken as a reduction-in-force action.

14. Suspension. The placing of an employee in a temporary nonduty, nonpay status for disciplinary reasons.

15. Letter of Requirement. A nondisciplinary, written notice which levies an employment-related requirement upon the recipient.

ENCLOSURE (1)

10 NOV 1998

ACTIONS EXCLUDED FROM COVERAGE

1. A suspension or removal taken in the interests of national security (5 U.S.C. 7532).
2. A reduction-in-force action.
3. A reduction in grade or removal based on performance under 5 U.S.C. 4303.
4. The reduction in grade of a supervisor or manager who has not satisfactorily completed the probationary period if such reduction is to the grade held immediately before becoming such a supervisor or manager (5 U.S.C. 3321).
5. An action initiated under authority of the Special Counsel or taken at the direction of the Merit Systems Protection Board (5 U.S.C. 1205, 1206, 1207).
6. An action taken under provision of statute, other than one codified in 5 U.S.C., which excepts the action from subchapter II of Chapter 75 of 5 U.S.C.
7. An action which entitles an employee to grade retention and an action to terminate this entitlement (5 U.S.C. 5362).
8. A voluntary action initiated by the employee.
9. An action taken or directed by the Office of Personnel Management for suitability reasons (5 CFR Parts 731 and 754).
10. Involuntary retirement because of disability.
11. Termination of appointment on the expiration date specified as a basic condition of employment at the time the appointment was made.
12. An action which terminates a term promotion and returns the employee to the position from which promoted or to a position of equivalent grade and pay, if the employee was informed that it was to be of limited duration.
13. Cancellation of a promotion to a position not classified prior to the promotion.
14. Placement of an employee serving on an intermittent, part-time, or seasonal basis in a nonduty, nonpay status in accordance with conditions established at the time of appointment.

ENCLOSURE (2)

BO 12752.1A

10 NOV 1998

15. Reduction of an employee's rate of pay from a rate which is contrary to law or regulation to a rate which is required or permitted by law or regulation.

16. An action against a reemployed annuitant.

ENCLOSURE (2)

10 NOV 1998

DELEGATION OF AUTHORITY AND RESPONSIBILITIES

1. Delegation of Authority

a. The authority to propose or effect adverse actions may be exercised by an official "acting" in the absence of the official to whom the respective authority has been delegated, but it may not be exercised "By direction."

b. First line and higher supervisors are delegated authority to give oral admonishments; and issue letters of admonishment, requirement, reprimand, and proposed suspensions of 14 days or less.

c. Senior command officials, respectively, hereby delegate authority to propose and effect disciplinary and adverse actions as follows:

(1) Marine Corps Base

(a) Effect Disciplinary Actions and Propose Adverse Actions. Division heads and designated subordinates of organizational commanders and command staff section heads.

(b) Effect Adverse Actions. Assistant Chiefs of Staff, organizational commanders, and command staff section heads.

(2) Marine Corps Air Station

(a) Effect Disciplinary Actions and Propose Adverse Actions. Department heads, designated subordinates of Commanding Officer, Headquarters and Headquarters Squadron, and designated subordinates of command special staff heads.

(b) Effect Adverse Actions. Heads of staff sections, Commanding Officer, Headquarters and Headquarters Squadron, and command special staff heads.

(3) Naval Hospital

(a) Effect Disciplinary Actions and Propose Adverse Actions. Department heads.

(b) Effect Adverse Actions. Commanding Officer, Executive Officer, and directors.

ENCLOSURE (3)

BO 12752.1A
10 NOV 1998

(4) Naval Dental Center

(a) Effect Disciplinary Actions and Propose Adverse Actions. Branch directors and Director, Dental Clinic Administration.

(b) Effect Adverse Actions. Executive Officer.

2. Responsibilities

a. Supervisors. The immediate supervisor is responsible for maintaining discipline and morale among the employees supervised and for initiating appropriate action when warranted. In initiating disciplinary actions, supervisors will be guided by enclosure (4). To ensure that supervisors exercise maximum responsibility over subordinates, employees will generally receive instructions or discipline from or through immediate supervisors. This does not preclude disciplinary action being initiated by higher levels of supervision. When this is done, the higher level supervisor should consult with, and to the extent practicable, work through the immediate supervisor. When a supervisor observes an infraction of rules and the immediate supervisor of the employees concerned is not available, this person may take such steps on the spot as appear warranted. Thereafter, this supervisor will locate the supervisor concerned, fully explain the circumstances, and place further responsibility for action in the hands of the immediate supervisor. When military personnel serve as immediate supervisors of civilians, they will exercise the same responsibilities as are exercised by civilian supervisors.

b. Human Resources Office Site Manager. The Human Resources Office Site Manager, through the Employee Labor and Relations Staff, is responsible for the following:

(1) Assisting supervisors and management officials at all levels in disciplinary and adverse action matters.

(2) Providing technical review of investigations.

(3) Drafting all adverse actions and disciplinary actions involving suspensions, ensuring consistency and conformance to prescribed regulations and procedures.

(4) Upon request, advising employees against whom adverse action is taken, concerning grievance/appeal rights.

ENCLOSURE (3)

10 NOV 1998

(5) Monitoring disciplinary procedures and recommending changes as appropriate.

(6) Maintaining a record which, at a minimum, will contain copies of:

- (a) The proposed action.
- (b) The employee's written answer, if any.
- (c) A summary of the employee's oral reply, if one is made.

- (d) The notice of decision and the reasons therefore.
- (e) The supporting material.
- (f) Any order affecting the decision.

(7) Providing a copy of the record to the Merit Systems Protection Board (MSPB) upon its request and to the employee affected or employee's designated representative upon the employee's written request.

ENCLOSURE (3)



10 NOV 1998

GUIDANCE IN EFFECTING DISCIPLINARY ACTIONS

1. Purpose. The purpose of this enclosure is to provide advice and guidance to supervisors and managers in effecting disciplinary actions. It should be understood to constitute minimum acceptable procedure and followed under normal disciplinary situations.

2. Department of the Navy Philosophy of Discipline. Discipline is a managerial tool intended to correct deficiencies in employee behavior and attitude, correct situations which interfere with efficient operations, maintain high standards of government service, and maintain public confidence in the Department of the Navy (DON). It is not the philosophy of DON to utilize disciplinary measures for the sole purpose of punishing employees. An employee whose behavior is not acceptable to management, but whose behavior is not corrected is quite likely to persist in that unacceptable behavior in the erroneous belief that it is correct, or at least condoned. Supervisors and managers have an obligation to such employees to correct behavioral deficiencies while they are still minor and before the behavior becomes habit and a bad example to others. It is easier to correct a first instance of deficient behavior than to ignore the situation and later try to correct the third, fourth, or fifth instance. It is easier and better management to correct a minor case of deficient behavior than to ignore the situation and allow the problem to become a major one.

3. Guidance in Selecting a Proper Course of Disciplinary Action

a. Choose the Minimum Disciplinary Action Likely to Correct the Improper Behavior. Most people would not use an elephant gun in hunting rabbits and this analogy holds true in choosing disciplinary actions. For example, it would be foolish to attempt to correct an employee's first instance of tardiness by imposing a 1-day suspension. Such an action could create a significant amount of resentment in the employee and do more damage than good. Determining the minimum action likely to correct the problem is extremely important and a responsibility which frequently lies with the first line supervisor.

b. Disciplinary Actions Must be Fair and Just. This is another way of saying that there must be similar actions for similar offenses. This does not mean that all similar actions must bear identical remedies since there are other factors such as mitigating circumstances which should be considered. It is important that managers have good reasons for imposing

ENCLOSURE (4)

10 NOV 1998

significantly different remedies for similar offenses. A good place to start in determining a proper remedy is to look at enclosure (6). While this schedule of corrective actions is not mandatory, most actions within the DON fall within its limits and there should be good reasons for deviation from the guide when it occurs.

c. Disciplinary Actions Should be Timely. Being timely does not mean that disciplinary actions should be taken in haste. Disciplinary actions should not be taken precipitately because important facts might be ignored. However, the corrective influence of a suspension, for example, is greatly diminished if it follows the offense by six months or a year.

d. Mitigating, Unusual, or Aggravating Circumstances Should be Considered in Determining a Proper Disciplinary Action. Such considerations as the employee's position, length of service, or prior disciplinary actions should be taken into consideration. If at all possible, obtain the employee's version of the events before initiating a disciplinary action. It may be that the employee will have an acceptable explanation or be able to present mitigating circumstances.

e. Consider the Employee as a Unique Individual. What is the employee's attitude? Does the employee fully understand the nature of the offense and why the manager is troubled? Is the offense part of a continuing behavioral pattern or does it represent an isolated action? Has the employee been led to believe that the behavior in question is appropriate?

4. Alternative Courses of Action. While it is a generally bad idea to ignore instances of employee misconduct, all misconduct does not warrant formal disciplinary action. There are other forms of correction available.

a. Explanation or Training. If the employee is unaware of the proper performance or conduct, it may be that training, or perhaps a sound explanation, will be sufficient to correct the problem. This alternative is particularly likely to be appropriate when the employee is new or working in an unfamiliar environment.

b. Civilian Employee Assistance Program (CEAP). As a general rule it is in the best interest of DON to rehabilitate rather than remove an employee. Misconduct is not always willful. It may stem from alcoholism, misuse of drugs, or from other personal problems which may be helped through the CEAP. A

ENCLOSURE (4)

10 NOV 1998

manager should seek guidance and advice from the Human Resources Office on whether to refer an employee to a CEAP counselor or take disciplinary action.

c. Performance Ratings. Most employees are aware of the importance of performance ratings and want to receive favorable ratings. A discussion about performance and/or a low performance appraisal should have a positive effect in improving employee performance. If an employee's performance becomes unacceptable, that employee may be demoted or removed in accordance with BO 2430.4A.

d. Withholding Within-Grade Increases. If an employee's performance does not warrant a within-grade increase, it is appropriate to give the employee a negative determination. This procedure is available to defer or deny unearned incremental salary increases and to motivate the employee to improve current performance.

e. Voluntary Action by Employee. An employee who is confronted by management with a potential disciplinary situation may volunteer to accept a lower grade, a reassignment, or resignation in lieu of disciplinary action. However, management must not coerce the employee into taking such an action. It is permissible to tell an employee that a removal action is contemplated and that if the employee resigns before an action is proposed, no record will be made in the Official Personnel File. It is not permissible to tell the employee that the employee must resign or face a removal action. The latter example is coercion, and must be avoided.

f. Oral Admonishment. Oral admonishments or warnings are informal actions and usually constitute the first step in progressive discipline. As a rule, they are taken by the immediate supervisor for minor violations of a rule or regulation, or to call the employee's attention to certain deficiencies in conduct. Incidents for which an employee is orally admonished will not be counted as prior offenses or infractions when determining a remedy under the Schedule. They may be used in subsequent actions, however, to show that certain aspects of conduct have been brought to an employee's attention. The supervisor should retain personal notes of any oral admonishment for a period of one year. An oral admonishment will not be made a matter of record in the Official Personnel Folder. Oral admonishments may not be grieved under the Administrative Grievance Procedure or appealed.

ENCLOSURE (4)

10 NOV 1998

g. Letters of Admonishment/Caution. A letter of admonishment is a nondisciplinary, written correction of an employee's improper conduct. It may be issued to an individual employee or to a group of employees by an immediate supervisor or by a higher level management official. It advises the recipient(s) of the acceptable standards of conduct and provides notification that conduct is failing to meet those standards. Incidents which form the basis for the issuance of letters of admonishment will not be counted as prior offenses when determining the range of remedies for a subsequent infraction under enclosure (6). Such incidents may, however, be included in the specifications of such infractions when it is appropriate to describe a pattern of conduct. Such letters will not be filed in the employee's Official Personnel Folder, but will be retained by the supervisor for a period not to exceed one year. They will be automatically canceled one year from the date of issuance. They must be reviewed by the Human Resources Office for conformance with prescribed procedures prior to issuance to an employee.

h. Letters of Requirement. A letter of requirement is a nondisciplinary, written notice which levies an employment-related requirement upon the recipient. It may be issued to an individual employee or to a group of employees by an immediate supervisor or by a higher level management official. A letter of requirement may levy a requirement on an employee which is over and above that expected of other employees; e.g., one which requires a doctor's certificate to support future requests for sick leave, or one which subjects an employee to certain controls not imposed on other employees. Incidents which form the basis for the issuance of a letter of requirement will not be counted as prior offenses when determining the remedy for a subsequent infraction under enclosure (6). Such letters will not be filed in the employee's Official Personnel Folder and will be rescinded in writing at such time as improvement in the employee's record warrants. Letters of requirement may be used during their retention period to show that a particular matter has been officially noted and brought to the employee's attention. Letters of requirement are grievable through the appropriate grievance procedure and must be reviewed by the Human Resources Office for conformance with prescribed procedures prior to issuance to an employee.

5. Formal Disciplinary Actions

a. Letter of Reprimand. A letter of reprimand is the minimum formal disciplinary action that may be counted as a prior offense when determining a remedy under the Schedule. It is

ENCLOSURE (4)

10 NOV 1998

appropriate when a breach of the employee-employer relationship is of such nature as to warrant the temporary inclusion of a record in the employee's Official Personnel Folder. It constitutes a fair warning that the employee has failed or is failing to meet the prescribed standards of behavior of the organization. A reprimand is the first in a possible series of formal disciplinary actions, each more progressive in nature, if the reprimand does not serve its purpose. Incidents which form the basis for the issuance of a reprimand may be counted as prior offenses when determining the remedy for a subsequent infraction under enclosure (6). In certain types of offenses, when a suspension may not be the correct remedy, a series of reprimands, progressively more severe in tone would carry the same weight as suspensions in justifying a subsequent removal action.

b. Suspension of 14 Calendar Days or Less. A suspension is a formal disciplinary action that may be the final warning step in the progressive disciplinary process before removal action. It is a placing of an employee in one or more days of nonduty status, without pay. A suspension is appropriate where other nonformal and/or formal actions have failed to correct unacceptable conduct. Most suspensions fall within a one-to-five-day period. Rarely should a suspension in excess of 10 days be appropriate. The financial impact upon the employee should be carefully considered in decisions to suspend, and the number of days set at a point within the recommended range which will serve to be corrective rather than punitive.

c. Suspensions for More than 14 Calendar Days. A suspension for more than 14 calendar days should not, generally, be imposed. Some circumstances which justify such remedies are: (1) when required by law; (2) when directed by the Office of Personnel Management; (3) when the particular circumstances of the case justify, e.g., an indefinite suspension pending an investigation or disposition of a criminal action; or (4) in conjunction with a removal action where circumstances preclude retaining the employee in a duty status.

d. Removal. Removal should be taken only after less severe measures have failed to correct the offending employee, or when the first offense is of such a serious nature that removal action is clearly warranted. A removal action may be based on an employee's conduct off the job as well as on the job. It may also be based on action occurring before appointment, e.g., falsification of an application. Removal action will be initiated only after it has been clearly demonstrated that the employee does not conform to the accepted rules of conduct, and where such action will promote the efficiency of the service.

ENCLOSURE (4)

BO 12752.1A
10 NOV 1998

e. Reduction in Grade or Pay. A demotion is not normally an appropriate action since it is usually related to matters of performance. However, in situations of misconduct which appear to warrant removal, demotion to a position of lesser responsibility and authority may be appropriate and serve as a more moderate remedy; e.g., demotion from a supervisory to a nonsupervisory position, and withdrawal of contract approval authority. An employee's previous employment record and the prospect for satisfactory performance in another position should be primary considerations in making this determination.

6. Special Disciplinary Situations

a. Leave Abuse. Leave Without Pay (LWOP) is an approved absence. Do not attempt to impose disciplinary action based on instances of LWOP. If an employee is absent without permission, carry that employee as Absent Without Leave (AWOL). A charge of AWOL will support a disciplinary action. However, an instance of AWOL does not demand a disciplinary action. It does require conducting an investigation. An employee who is AWOL is not paid for the period of unapproved absence. AWOL is charged for the exact amount of time the employee is absent.

b. Indefinite Suspension. If there is good reason, such as an indictment, to believe that an employee is guilty of a crime for which a prison sentence may be imposed, it is possible to place the employee on an indefinite suspension pending resolution of the matter. Though an indefinite suspension is of unspecified duration, the same rules apply as to any type of suspension. If it is expected that the indefinite suspension will last for more than 14 days, the employee must be given 30 days' notice (7 days if the crime provision is invoked), and the employee has the right to appeal to the Merit Systems Protection Board (MSPB) or grieve under the appropriate grievance procedure. "Emergency" suspensions without giving employees the proper notice period and appeal rights are not permitted.

c. Drug And Alcohol Abuse Offenses. Any employee who engaged in misconduct involving drugs and/or alcohol shall be disciplined according to this Order. Special situations are described below.

(1) Voluntary Referral to the Civilian Employee Assistance Program (CEAP). An employee who voluntarily refers himself or herself to the CEAP as a user of illegal drugs under the "safe harbor" provision of BO 12792.3A will be exempt from

ENCLOSURE (4)

10 NOV 1998

disciplinary action for the admitted acts of illegal drug use, including possession incident to such use, provided the employee meets and complies with the requirements of BO 12792.3A, paragraph 7e.

(2) Assertion of a Handicapping Condition in Reply to a Proposed Action. Any employee who asserts a physical or mental impairment (handicapping condition) in connection with drug or alcohol-related unacceptable performance or misconduct shall be provided reasonable accommodation when the employee:

(a) Establishes by competent medical evidence that he or she is a qualified handicapped person, and

(b) Demonstrates that the unacceptable performance or misconduct is caused by the handicapping condition of alcoholism or drug dependency.

(3) Undue hardship on an Activity. Reasonable accommodation is not required when it would impose an undue hardship on the operation of the program of the employee's activity, such as continuing an unreliable employee in a critical function or in duties which could affect the health or welfare of others.

(4) Conduct Which Takes an Employee Outside the Protection of the Rehabilitation Act. The MSPB has held that there are "...certain acts of misconduct which, when committed by an employee who is an alcoholic or drug addict, take that employee outside the scope of the protecting legislation because the misconduct renders that person not a qualified handicapped individual." Egregious or notorious misconduct that hampers an employee's ability to perform the employee's duties or to represent the agency, or which strikes at the core of the job or the agency's mission, can, standing alone, disqualify a Federal employee from the employee's position.

(5) Trafficking. Trafficking in drugs is misconduct which does not normally entitle an employee to reasonable accommodation. Accordingly, an employee who traffics in drugs will be subject to remedies as provided for in the table of penalties.

ENCLOSURE (4)

BO 12792 1A
10 NOV 1998

7. General Prohibitions and Problems

a. Use of Government Property, Facilities, and Manpower. An employee is prohibited from directly or indirectly using or allowing the use of Government property of any kind, including property leased to the Government, for other than officially approved activities. An employee has a positive duty to protect and conserve Government property, including equipment, supplies, and other property entrusted or issued to the employee.

b. Misuse of Information. An employee is prohibited from directly or indirectly using or allowing the use of official information obtained through or in connection with the employee's Government employment which has not been made available to the general public, for the purpose of furthering a private interest.

c. Contributions or Presents to Supervisors. An employee shall not solicit contributions from another employee for a gift to an employee in a superior official position; and an employee in a superior official position shall not accept a gift presented as a contribution from employees receiving less salary than the employee; and an employee shall not make a donation as a gift to an employee in a higher official position. This does not, however prohibit a voluntary gift of nominal value or a donation in a nominal amount when made on a special occasion such as marriage, illness, or retirement.

d. Outside Employment

(1) Incompatible Activities. An employee is prohibited from engaging in outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of government employment. Outside employment which tends to impair the employee's mental or physical capacity to perform the employee's government duties and responsibilities in an acceptable manner is forbidden. Other incompatible activities include, but are not limited to, acceptance of any favor, pay, gift, payment of expenses, or any other thing of monetary value in circumstances in which acceptance may result in or create the appearance of conflicts of interest. Employees who intend to run for office in nonpartisan elections or who desire to hold an appointive office with a state or local government, concurrent with their Federal government position, must obtain prior approval of such outside employment from the senior command official. Such approval is contingent upon a determination by the command that the holding of office is not incompatible with, and would not interfere with, the regular and efficient discharge of duties of the employee's Federal position.

ENCLOSURE (4)

10 NOV 1998

(2) Additional Compensation for Services. An employee is prohibited from receiving any salary or anything of monetary value from a private source as pay for the employee's services to the government.

e. Conduct Prejudicial to the Government. An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct or other conduct prejudicial to the government. Employees shall avoid any action, whether or not specifically prohibited, which might result in or create the appearance of using public office for private gain, giving preferential treatment to any person, impeding government efficiency or economy, losing complete independence or impartiality, making a government decision outside official channels, or affecting adversely the confidence of the public in the integrity of the government.

f. Indebtedness. Employees are required to pay each just financial obligation in a proper and timely manner, especially one imposed by law such as state, federal, or local taxes.

g. Reporting for Duty or Being on Duty Under the Influence of Intoxicants. An employee suspected of reporting for duty or being on duty under the influence of intoxicants will be taken by a supervisor to the Branch Clinic, Building 15, for medical evaluation by a medical officer whenever this is practicable. After normal working hours employees will be seen in the Emergency Room, Naval Hospital, for evaluation. Items 1 through 12 of the Competence for Duty Examination Form, NAVMED 6120/1 (available through Self-Service), will be completed by the organizational commander, command staff section head, department head, division head, or chief of service, as appropriate, or their designated representative, and submitted to the examining physician for the requested examination. Upon completion of the examination, NAVMED 6120/1 and the employee will be released to the official who requested the examination. If it is determined that the employee is under the influence of intoxicants, the employee will be placed on sick leave for the remainder of the day and appropriate action initiated in accordance with this Order and BO 12792.2C.

ENCLOSURE (4)

10 NOV 1998

PROCEDURES FOR TAKING ACTION

1. Investigative Report

a. Prior to initiating any disciplinary action, management must ascertain whether there is sufficient evidence to justify the contemplated action; a prima facie case that can withstand all of the following tests must exist: that the action can be demonstrated to be for such cause as will promote the efficiency of the service; that the evidence has been thoroughly documented and can be supported by testimony or documents in a grievance or an appeal; that the proposed action is consistent with other actions taken by the command.

b. Investigations will be initiated in a timely manner after the alleged incident or awareness thereof. Such an investigation may be conducted by the employee's immediate supervisor or by any official so authorized. The investigation may include: documented interviews of witnesses; acquisition and examination of pertinent evidence, documents, and reports; visual inspection of the work or incident site (if relevant); and documentation of any unusual conditions or special circumstances. An interview with the employee involved may be especially important to the inquiry. A copy of any written statements made by the employee will be provided to the employee or the employee's designated representative. A properly conducted inquiry may disclose information or mitigating circumstances which otherwise might not be brought to light until a grievance/appeal hearing.

c. An investigation report will be prepared as outlined in enclosure (7), recording all information, specifically and in detail, i.e., dates, times, specific instances, and other data necessary to understand the charge.

d. The investigation report with proposed remedy will be forwarded directly to (no via) the Employee Relations Superintendent, Human Resources Office (HRO) for technical review. The guidance contained in enclosure (6) may be beneficial in determining the appropriate remedy.

e. For Marine Corps Base and MCAS, New River employees, disciplinary and adverse actions will normally be initiated within 30 days after being made aware of the facts and circumstances of an offense that warrants such action. If there is to be a delay in making a determination whether or not to take an action, the concerned employee will be advised in writing that action is being considered and given an estimated date by which such determination will be made.

ENCLOSURE (5)

10 NOV 1998

f. When a letter of admonishment/caution or reprimand is considered the appropriate action, it should be promptly prepared in draft form, using enclosure (8) or (9) as a guide, attached to the completed investigation report, and forwarded directly to (no via) the Employee Relations Superintendent, HRO for review. After review, the letter will be returned for preparation and issuance to the employee.

g. When a penalty more severe than a letter of reprimand is considered necessary, the investigation will be forwarded directly to (no via) the Employee Relations Superintendent, HRO by the appropriate official authorized to initiate such action, with a statement of the remedy proposed, i.e., number of days of suspension, removal, or demotion. The HRO will prepare, in draft form, the advance notice letter for the cognizant official's approval. The cognizant official will issue the proposed letter and effect delivery to the employee. Delivery will be by such means as to ensure that a copy of the issued letter, with a signed receipt or certification of delivery, is transmitted to the HRO for retention and follow-up.

2. Corrective Actions (See enclosure (4) for discussion)

a. Oral Admonishment.

b. Letter of Admonishment/Caution. (See enclosure (8) for example). A letter of admonishment/caution will:

(1) Specify the reasons for its issuance.

(2) State the letter will not be placed in the employee's Official Personnel Folder.

(3) State it will not be counted as a prior offense when determining a remedy for a subsequent offense.

3. Disciplinary Actions (See enclosure (4) for discussion)

a. Letter of Reprimand. (See enclosure (9) for example.) A letter of reprimand will:

(1) Specify the reasons for its issuance.

(2) State it will be made a matter of record in the employee's Official Personnel Folder for a period of one year from the date of the letter.

(3) Specify the employee's right to file a grievance under the appropriate procedure.

ENCLOSURE (5)

10 NOV 1998

(4) State that it may be counted as a prior offense when determining a remedy for a subsequent offense.

b. Suspensions of 14 Days or Less. An employee against whom a suspension of 14 days or less is proposed, is entitled to:

(1) An advance written notice stating:

(a) The specific reasons for the proposed action.

(b) The name and title of the official designated to hear an oral reply and/or receive the written reply (the official so designated must have authority to either make or recommend a final decision on the proposed action).

(c) The amount of time (10 days except for the Naval Hospital which is seven days) the employee is allowed to answer orally and in writing.

(d) The right of the employee or the employee's representative to review the material which is relied upon to support the reasons given in the notice.

(2) A copy of the material, if any, relied on to support the reasons given in the notice.

(3) A reasonable amount of official time to review the material relied upon to support the proposal and to prepare an answer and to secure affidavits, if the employee is otherwise in an active duty status.

(4) Ten days (except for the Naval Hospital which is seven days) to present an oral and/or written reply to the proposed action.

(5) Be represented by an attorney or other representative.

(6) A written decision, normally within 10 days, after expiration of time allowed for the response which:

(a) Considers only the reasons specified in the notice of proposed action.

(b) Specifies the reasons for the decision.

(c) Considers any answer of the employee and/or the employee's representative made to a designated official.

ENCLOSURE (5)

10 NOV 1998

(d) Is signed by an official in a higher position than the official who proposed the action (if the activity head signed the advance written notice, the next higher level of management in chain of command must sign the written decision).

(e) Specifies the employee's right to file a grievance under the appropriate grievance procedure.

(f) Is delivered to the employee prior to the effective date of the action.

(7) Employees in receipt of an advance notice may request, in writing, additional time to respond orally and/or in writing. The official designated to accept response may make a decision regarding such request.

(8) Employee representation is subject to challenge in accordance with paragraph 6 of this enclosure.

4. Adverse Actions

a. An employee against whom an adverse action is proposed, is entitled to:

(1) At least 30 days advance written notice (except in those cases where there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed), stating:

(a) The specific reasons for the proposed action.

(b) The name and title of the official designated to hear an oral reply and/or receive a written reply (the official so designated must have authority to either make or recommend a final decision on the proposed adverse action).

(c) The number of days, but no less than 15 days, that the employee is allowed to answer orally and/or in writing.

(d) If appropriate, the basis of selecting a particular employee for furlough, when some, but not all employees in a given competitive level are being furloughed, and the reasons for the furlough.

(2) A copy of the material relied upon to support the reasons given in the notice.

(3) A reasonable amount of official time to review the material relied upon to support the proposal and to prepare an

ENCLOSURE (5)

10 NOV 1998

answer and to secure affidavits, if the employee is otherwise in an active duty status.

(4) At least 15 days to answer orally and/or in writing and to furnish affidavits and other documentary evidence in support of the answer, including medical documentation if the employee wishes the deciding official to consider any medical condition alleged to contribute to the reasons for the proposed action (except in those cases where there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed).

(5) Be represented by an attorney or other representative.

(6) A written notice of final decision, normally within 15 days after the expiration of the time allowed for the employee's response, which:

(a) Considers only the reasons specified in the notice of proposed action.

(b) Specifies the reasons for the decision.

(c) Considers any answer of the employee and/or the employee's representative made to a designated official and any medical documentation furnished under 4a(4) above.

(d) Is signed by an official in a higher position than the official who proposed the action unless the activity head/commander issued the advance notice, in which case the activity head/commander may issue the written decision.

(e) Specifies the employee's right of appeal to the MSPB and right, when applicable, to file a grievance under the appropriate negotiated grievance procedure, but not both.

(f) Provides the time limits for filing a grievance or an appeal to the MSPB, the address of the appropriate Board Office for filing the appeal, a copy of the Board's regulations, and a copy of the Board's appeal form.

(g) Is delivered to the employee on or before the time the action will be effective.

b. Since a hearing shall be made available at an employee's request after an action has been effected, a hearing in lieu of or in addition to the opportunity for written and oral answer will not be conducted.

ENCLOSURE (5)

10 NOV 1998

c. When the crime provision is invoked, activities may effect an action in less than 30 days following the advance written notice. Activities may require the employee to furnish any answer to the proposed action, affidavits, and other documentary evidence in support of the answer within such time as under the circumstances would be reasonable, but not less than seven days. When the circumstances require immediate action, the activity may place the employee in a nonduty status with pay for such time, not to exceed 10 days, as necessary to effect the action.

d. The advance written notice and opportunity to answer are not necessary for furlough without pay due to the unforeseen circumstances such as sudden breakdown of equipment, acts of God, or sudden emergencies requiring immediate curtailment of activities.

e. Employees in receipt of an advance notice may request additional time to respond orally and/or in writing. The official designated to accept the response may make a decision regarding such request.

f. Employee representation is subject to challenge in accordance with paragraph 6 of this enclosure.

5. Probationary, Excepted Appointment, and Indefinite Employees Serving a Trial Period, and Temporary Employees with less than One Year of Continuous Service. The procedures in paragraphs 1 through 4 above do not apply to these employees. Prior to initiating disciplinary or separation actions on such employees, the HRO (Employee and Labor Relations section) should be contacted as to the appropriate procedure. Those officials delegated authority to effect disciplinary actions in enclosure (3) are hereby delegated the authority to separate probationary, excepted appointment, and indefinite employees serving a trial period and temporary employees with less than one year of continuous service.

6. Expedited Procedure for Determining Choice of Representative

a. An employee's choice of an employee representative in any of the procedures described in this Order may be disallowed if such representative would result in a conflict of interest or position, conflict with the priority needs of the activity, or would give rise to unreasonable costs to the government. Such matters of dispute over employee representation will be decided by the level of official delegated authority in enclosure (3) to

ENCLOSURE (5)

BO 12752.1A
10 NOV 1998

render a final written decision for the contemplated action. All such matters will be reviewed by the Employee and Labor Relations Superintendent, HRO, prior to referral to the official. Referral of the representation issue will be in writing.

b. An employee whose representative is disallowed may request a review of that decision by the immediate superior in command of the official who rendered the decision within five days of the disallowance determination.

c. The reviewing official will review the reasons for disallowance as well as information submitted by the employee and will make a final decision in writing within five days of the request.

d. Processing of the original action will be held in abeyance pending resolution of the representation issue.

ENCLOSURE (5)

BO 12752.1A
10 NOV 1998

GUIDELINE SCHEDULE OF DISCIPLINARY
OFFENSES AND RECOMMENDED REMEDIES

(Greater of Lesser Remedies may be Assessed Depending Upon
Circumstances)

INSTRUCTIONS FOR USE OF THE SCHEDULE

1. This schedule is not intended to cover every possible offense. Remedies for offenses not listed will be determined consistent with the guidelines contained herein.
2. When specifying an offense not listed on the schedule, the use of terms such as "theft" or "fraud," which require establishing the element of intent, should only be used when the element of intent can be proven.
3. Many of the items listed on this schedule combine several offenses in one statement connected by the word "OR." Usage of the word "OR" in a charge makes it nonspecific. Therefore, use only the items which describe the employee's actual conduct and leave out parts which do not apply.
4. Remedies for disciplinary offenses will, in general, range from the minimum to the maximum indicated. Depending on mitigating or aggravating factors, a remedy outside the general range may be imposed.
5. Suspension remedies on this schedule refer to calendar days.
6. In considering past offenses in determining a remedy, the following limitations must be observed:
 - a. Oral and written admonishments may not be counted as prior offenses in determining a range of remedies (however, they may be considered when determining an appropriate remedy within a range for any subsequent offense);
 - b. A letter of reprimand may be counted as a prior offense provided the letter of reprimand is dated no more than one year before the date of the proposed notice of disciplinary or adverse action in which it is cited (otherwise, it may be considered when determining an appropriate remedy within a range for any subsequent offense);
 - c. In utilizing past offenses in determining a corrective action, the notice of proposed adverse action should cite specifically the past offense in sufficient detail to allow the

ENCLOSURE (6)

BO 12752.1A

10 NOV 1998

employee to respond. Past offenses may only be counted if the employee was disciplined in writing, the employee had the right to dispute the action to a higher level, and the action was made a matter of record in the Official Personnel Folder.

d. Any past offense may form the basis for proposing a remedy from the next higher range of remedies for a subsequent offense. The offenses need not be identical or similar.

7. For information concerning other offenses for which employees may be disciplined by removal, fine, or imprisonment, including offenses which require minimum mandatory remedies (such as misuse of government vehicles, Hatch Act violations, and giving gifts to superiors), contact the Human Resources Office.

OFFENSE AND RANGE OF REMEDIES

RANGE OF REMEDIES

SCHEDULE OF OFFENSES AND RECOMMENDED REMEDIES

OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE
ALCOHOL ABUSE			
Unauthorized possession, sale or transfer of alcohol on duty or on a military ship, aircraft, or installation	14-day suspension to removal	30-day suspension to removal	Removal
Use of, or being under the influence of alcohol on duty or on a military ship, aircraft, or installation	14-day suspension to removal	30-day suspension to removal	Removal (R)
ATTENDANCE			
Excessive unauthorized absence (more than 5 consecutive workdays)	Reprimand to removal	10-day suspension to removal	Removal

ENCLOSURE (6)

10 NOV 1998

Leaving job to which assigned or Department of the Navy premises at any time during working hours without proper authorization	Reprimand to 5-day suspension	Reprimand to 10-day suspension	Reprimand to removal
Unexcused or Unauthorized absence on one or more scheduled days of work or assigned overtime	Reprimand to removal	5-day suspension to removal	10-day suspension to removal
Unexcused tardiness	Reprimand	Reprimand to 5-day suspension	Reprimand to removal

DISCRIMINATION

Discrimination against an employee or applicant based on race, color, religion, sex, handicap, national origin, or age, or any reprisal or retaliation action against a complainant, representative, witness, or other person involved in the EEO complaint process	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
Sexual harassment	Reprimand to removal	14-day suspension to removal	30-day suspension to removal

DRUG ABUSE

Unlawful use or possession of drugs or drug paraphernalia on or off duty	Reprimand to removal	Removal
Unlawful distribution, sale, or transfer of drugs or drug paraphernalia on or off duty	Removal	
Unlawful use or possession of drugs or drug paraphernalia on a military ship or aircraft	Removal	

ENCLOSURE (6)

BO 12752.1A

10 NOV 1998

DRUG TESTING

Refusal to provide a urine sample when required	Reprimand to removal	Removal	
Substituting, adulterating or otherwise tampering with a urine sample, testing equipment or related paraphernalia	30-day suspension to removal	Removal	
Attempted or actual falsification, misstatement or concealment of a material fact, record, correspondence, or other communication prepared in connection with the collection, handling, transportation or testing of urine samples	Reprimand to removal	14-day suspension to removal	30-day suspension

MISCELLANEOUS OFFENSES

Betting, gambling, or the promotion thereof on duty or on Department of the Navy premises	Reprimand to removal	5-day suspension to removal	10-day suspension to removal
Careless workmanship resulting in delay in production or spoilage or waste of materials	Reprimand to removal	5-day suspension to removal	10-day suspension to removal
Criminal, dishonest, infamous, or notoriously disgraceful conduct	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
Disobedience to constituted authorities; deliberate refusal or failure or delay in carrying out any proper order, work assignment or instruction; insubordination, including failure to follow local or higher level policy	Reprimand to removal	5-day suspension to removal	10-day (R) suspension to removal

ENCLOSURE (6)

BO 12752.1A
10 NOV 1998

Disrespectful conduct, use of insulting, abusive or obscene language to or about other personnel	Reprimand to 5-day suspension	5-day suspension to removal	10-day suspension to removal
Falsification (or aiding or assisting in falsification) of time and attendance records or claims against the government	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
Falsification, misstatement, or concealment of material fact in connection with any official record	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
False testimony or refusal to testify in an inquiry, investigation, or other official proceeding	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
Loafing; wasting time; inattention to duty; sleeping on duty	Reprimand to 5-day suspension	5-day suspension to removal	10-day suspension to removal
Making threats to other employees or supervisor; fighting; engaging in dangerous horseplay	Reprimand to removal	5-day suspension to removal	10-day suspension to removal
* Misuse of a Government vehicle	Reprimand to removal	30-day suspension to removal	Removal

* 31 U.S.C. 1349(b) requires a minimum suspension of one month even for the first offense, if the misuse was willful, i.e., employee acted either with knowledge that the intended use would be characterized as unofficial or with reckless disregard of whether such use was unofficial.

MISCELLANEOUS OFFENSES

Reckless driving or improper operation of motor vehicle:

ENCLOSURE (6)

BO 12752.1A
10 NOV 1998

Causing personal injury to self or others or damage to government property	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
No personal injury to self or others or damage to government property	Reprimand to 5-day suspension	Reprimand to 10-day suspension	14-day suspension to removal
Unauthorized possession, use, loss, or damage to government property or the property of others	Reprimand to removal	14-day suspension to removal	30-day suspension to removal

PROHIBITED PERSONNEL PRACTICE

Committing a prohibited personnel practice (See 5 U.S.C. 2302)	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
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SAFETY

Failure to observe posted smoking prohibitions	Reprimand to removal	5-day suspension to removal	10-day suspension to removal
Failure to use protective clothing or equipment	Reprimand to removal	5-day suspension to removal	10-day suspension to removal

Violation of safety or traffic regulations on duty or on an installation (on or off duty):

Causing injury to self or others or damage to property or endangering the safety of self or others	Reprimand to removal	10-day suspension to removal	14-day suspension to removal
No injury or property damage; not endangering the safety of self or others	Reprimand to 5-day suspension	Reprimand to 10-day suspension	Reprimand to removal

ENCLOSURE (6)

10 NOV 1998

SECURITY

Failure to safeguard
classified material

Security compromised	Reprimand to removal	14-day suspension to removal	Removal
Security not compromised	Reprimand to 5-day suspension	Reprimand to 14-day suspension	30-day suspension to removal

UNAUTHORIZED DISCLOSURE
OR USE OF PROTECTED MATERIAL

Unauthorized disclosure or use of information or other protected material (e.g., records covered by the Privacy Act or under 42 CFR Part 2 (CEAP records))	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
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ENCLOSURE (6)

10 NOV 1998

INVESTIGATION REPORT

1. FORMAT OF INVESTIGATION. The following format is suggested for investigation reports:

Employee: (Name, Title, and Organization)

Offense: (See Enclosure (6) Schedule)

Investigator: (Name, Title, Organization)

Ref: (a) BO 12752.1A

1. As required by the reference, the circumstances concerning the above cited offense(s) as related to the named employee has/have been investigated. The following information and facts were developed:

a. State the circumstances - include all information specifically and in detail, including times, dates, and places, specific instances, and other data sufficient to explain and support the offense(s) cited. Include any comments made by the employee, oral and/or written. If employee requests representation in connection with the investigation, include who was present during the questioning and when questioning was held. If written statements were made, they should be signed and forwarded with the investigation (the employee or the employee's designated representative will be provided a copy). If only oral statements were made, include a summary in the investigation. Check personnel record to establish violation as a first, second, or third infraction.

b. Complete the investigation and submit to the HRO for technical review with recommended action to be taken (paragraph 2, below).

SIGNATURE OF INVESTIGATOR

/s/

Date completed:

Telephone:

ENCLOSURE (7)

BO 12752.1A

10 NOV 1998

2. TRANSMITTAL OF INVESTIGATION REPORT. The completed investigation should be transmitted using the following format as appropriate:

From: (Title of person conducting investigation)
To: Human Resources Office Site Manager

Subj: REPORT OF INVESTIGATION, CASE OF (EMPLOYEE'S NAME AND TITLE)

Ref: (a) BO 12752.1A

Encl: (1) Subject investigation report
(2) Copy of letter of admonishment or reprimand (as appropriate)

1. In accordance with the provisions of the reference, an investigation was conducted by the undersigned regarding (state the offense) of/by the subject employee. In view of the circumstances and facts developed, as outlined in enclosure (1), it is considered that (state the remedy, i.e., removal from employment or suspension of _____ days) is warranted as the minimum corrective action which will be effective in this case. Accordingly, such action is recommended.

NOTE: (Enclosure 2 above, not appropriate in this case).

OR

1. In accordance with the provisions of the reference, an investigation was conducted by the undersigned regarding (state the offense) of/by the subject employee. In view of the circumstances and facts developed, as outlined in enclosure (1), it is considered that a letter of admonishment or reprimand (as appropriate) will constitute sufficient action. The letter will be issued upon review and approval of enclosure (2).

/s/

NOTE: In cases of suspension of 14 days or less or adverse actions, the HRO will draft the proposed action letter and submit it to the official authorized to propose the action for approval and issuance.

In cases of letter of admonishment or reprimand, the HRO will review the draft and return to the issuing supervisor as appropriate.

ENCLOSURE (7)

10 NOV 1998

SAMPLE LETTER OF ADMONISHMENT/CAUTION

From: Normally, the employee's immediate supervisor (one who approves leave and assigns performance ratings)

From: (Supervisor's Title)
To: (Name and Title)
Subj: LETTER OF ADMONISHMENT
Ref: (a) BO 12751.1A

Circumstance: Para 1. Be specific and detail as to what deficiencies in conduct are being brought to the employee's attention. Explain what is expected as acceptable standards of conduct and how the employee may improve.

1. On 22 March 1998, you attended a meeting with all the employees of your section in which the matter of leaving work sites dirty at the close of business was discussed. At this meeting, everyone was advised the supervisor would make daily inspections prior to the close of business to ensure all work sites were left in an orderly condition. During the inspection at 1625 on 28 March, you were informed your work site was not clean and should be taken care of before 1630. No further inspection was made on 28 March. At 0800 on 29 March, however, your work area was again inspected. At that time, it was noted the site was still dirty and it did not appear any effort had been made to clean it as instructed.

Admonish: Para 2. Explain what may there is a recurrence of the matter and the improvement expected. Offer assistance.

2. In accordance with the result of provisions of the reference, you are hereby admonished that any further occurrence of failure to carry out instructions of superiors may result in appropriate disciplinary action. You will be given reasonable assistance to improve. Special assistance will be given upon request.

Retention and Future Use: Para 3. Required in all letters of admonishment.

3. This letter is not considered to be a formal action and will not be included in your Official Personnel Folder. It will, however, be retained by your supervisor during its effective period and may be used in any future action(s) to describe a pattern of conduct. This letter will be automatically canceled one year from date of issuance.

ENCLOSURE (8)

BO 12752.1A

10 NOV 1998

Grievance Rights: Para 4. Required in letters of Admonishment. Specify the appropriate procedure.

4. If you consider this admonishment improper, you may grieve through the procedures set forth in the (Navy grievance procedure or the negotiated grievance procedure, as appropriate). If you exercise this right, your grievance must be initiated within (15 to 21, as appropriate) calendar days from the date of receipt of this letter.

Signature: Person authorized to issue.

?s?

Certification of Deliver (On copy only): Obtain receipt or certify concerning delivery/mailing.

This is to certify that I received the original of this letter on this date.

(Signature)

(Date)

ENCLOSURE (8)

SAMPLE LETTER OF REPRIMAND

From: (Title)
To: (Name and Title)

Subj: REPRIMAND

Ref: (a) BO 12630.1J
(b) BO 12752.1A

CHARGE: Para 1. Cite specific reasons for issuance of reprimand (use parts of blanket statement in Guideline Schedule which describe actual misconduct). Be specific and detailed as to all circumstances. Cite all oral and written instructions violated.

Discussion: Para 1. Summarize discussion(s) with employee. Cite action employee was advised would be taken or recommended.

Decision: Para 2. Cite all information considered--show finding and decision on each charge.

1. You are hereby charged with unauthorized absence on 15 April 1998. You did not report for work on 15 April and did not advise your supervisor of the reason for your absence as required by reference (a). No information was received from you until you reported for work on 16 April. When this absence was discussed with you on 16 April, you stated that you asked your neighbor to call in for you, but he had apparently forgotten to do it. You were asked if you were familiar with the leave regulations outlined in reference (a), which state that annual leave must be requested and approved in advance or reported on the first day of such absence if required for an emergency. You stated that you knew what was required, but you thought your neighbor would take care of it.

2. The charge in paragraph 1 and your reply thereto have been carefully considered. The charge has been found to be supported by a preponderance of the evidence. It has, therefore, been decided that the charge is sustained and sufficient to warrant a reprimand. Accordingly, this letter

ENCLOSURE (9)

BO 12752.1A

10 NOV 1998

Grievance Rights: Para 3. Required in all reprimands. Specify appropriate grievance procedure.

Signature: Person authorized to issue letter.

Certification of Delivery (On copy only):
Obtain signed receipt or submit certification concerning delivery/mailing and forward to HRO with one other copy.

constitutes a reprimand in accordance with reference (b) and will be made a matter of record in your Official Personnel Folder for a period of year. Future disciplinary offenses may result in a more severe remedy as warranted by circumstances.

3. If you consider this reprimand improper, you may grieve through the (Navy Grievance Procedure or negotiated grievance procedure, as appropriate). If you exercise this right, your grievance must be initiated within (15 or 21, as appropriate) calendar days from the date of receipt of this letter.

/s/

Copy to:
HRO (2)

This is to certify that I received the original of this letter on this date.

(Signature)

(Date)

ENCLOSURE (9)

10 NOV 1998

SAMPLE LETTER OF REQUIREMENT

From: Normally the supervisor who assigns performance appraisals and ratings. Must be reviewed by HRO prior to issuance.

From: (Title)
To: (Name and Title)

Subj: LETTER OF REQUIREMENT

Ref: (a) BO 12630.1J
(b) Negotiated Agreement as appropriate

Circumstances: Para 1. Explain fully as to what deficiencies in conduct or performance are being brought to the employee's attention. Note counseling given and date.

1. In reviewing your past applications for sick leave, it appears in some instances you have abused your sick leave privilege. Your leave record shows that in most cases your sick leave has been taken in intervals of from one to three days, which did not necessitate medical certification. From personal observations and reports from various sources, I am of the opinion that in many instances your sick leave was abused. On (date) this matter was discussed with you. You were advised orally on (date) that consideration was being given to requiring medical certification for each such absence since the abuse of sick leave was indicated.

Requirement: Para 2. Explain what is being required and what action may result if the requirement is not met.

2. Your sick leave record has not improved. Consequently, it has been determined that in accordance with the references, your future applications for sick leave must be supported by medical certification regardless of the length of such absence. Failure to provide medical certification for any absence because of illness may result in disciplinary action based on unauthorized absence.

ENCLOSURE (10)

BO 12752, 1A
10 NOV 1998

Guidance: Para 3. Explain what is expected as acceptable standards of conduct or performance and how the employee may improve.

Retention and Future Use: Para 4. Required in all letters of requirement.

Grievance Rights: Para 5. Required in all letters of requirement. Specify which grievance procedure.

Signature: Person authorized to issue.

Certification of Delivery (On copy only:
Obtain signed receipt or submit certification.

3. It is to your benefit to correct any physical disability which may be causing recurrent absences. If you have any physical ailment of any kind, it is also to your benefit to have such condition medically corrected in order that your job may not be jeopardized by repeated absences. You are urged to attend to this matter promptly by consulting your private physician.

4. Although this letter is not considered to be a formal action and will not be included in your Official Personnel Folder, it will be retained by your supervisor during its effective period and may be used in any future actions to describe a pattern of conduct. This requirement will be rescinded in writing at such time as improvement in your sick leave record warrants.

5. You may grieve this action through the the (Navy grievance procedure or the negotiated grievance procedure, as appropriate).

/s/

Copy to:
HRO

This is to certify that I received the original of this letter on this date.

(Signature)

(Date)

ENCLOSURE (10)

Eric M. Kopka

Attorney at Military Law

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P: 910-455-6300 F: 910-455-3012

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10 U.S.C.A. § 928

UCMJ Art. 128

United States Code Annotated Currentness

Title 10. Armed Forces (Refs & Annos)

Subtitle A. General Military Law (Refs & Annos)

Part II. Personnel (Refs & Annos)

Chapter 47. Uniform Code of Military Justice (Refs & Annos)

Subchapter X. Punitive Articles (Refs & Annos)

§ 928. Art. 128. Assault

(a) Any person subject to this chapter who attempts or offers with unlawful force or violence to do bodily harm to another person, whether or not the attempt or offer is consummated, is guilty of assault and shall be punished as a court-martial may direct.

(b) Any person subject to this chapter who--

(1) commits an assault with a dangerous weapon or other means or force likely to produce death or grievous bodily harm; or

(2) commits an assault and intentionally inflicts grievous bodily harm with or without a weapon;

is guilty of aggravated assault and shall be punished as a court-martial may direct.

CREDIT(S)

(Aug. 10, 1956, c. 1041, 70A Stat. 75.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1956 Acts

Revised section	Source (U.S. Code)	Source (Statutes at Large)
928(a)	50:722(a).	May 5, 1950, ch. 169, § 1 (Art. 128), 64 Stat 141.
928(b)	50:722(b).	

House and Senate Reports to accompany H.R. 7049, see 1956 U.S. Code Cong. and Adm. News, p. 4613.

CROSS REFERENCES

Burglary when intending to commit offense punishable under this section, see 10 USCA § 929.

Federal offense, see 18 USCA § 111 et seq.

Statute of limitations, see 10 USCA § 843.

Superior commissioned officer, assaulting, see 10 USCA § 890.

28